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Pennsylvania (Colony) Laws, statutes, etc
Compilations
1880
CF

CHARTER

TO

WILLIAM PENN,

AND

LAWS OF THE PROVINCE OF PENNSYLVANIA,

PASSED BETWEEN THE YEARS 1682 AND 1700,

PRECEDED BY DUKE OF YORK'S LAWS IN FORCE FROM THE YEAR 1676 TO THE YEAR 1682, WITH AN

APPENDIX

CONTAINING LAWS RELATING TO THE ORGANIZATION OF THE PROVINCIAL COURTS AND HISTORICAL MATTER.

PUBLISHED UNDER THE DIRECTION OF
JOHN BLAIR LINN,
Secretary of the Commonwealth.

COMPILED AND EDITED BY
STAUGHTON GEORGE, BENJAMIN M. NEAD,
THOMAS McCAMANT.

HARRISBURG:
LANE S. HART, STATE PRINTER.
1879.

100

OBVERSE.

REVERSE.

Great Seal of the Province of Pennsylvania,
(reduced one-half.)

Rec. June 4, 1902.

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PREFACE.

The compilation and publication of the laws and other matter contained within this volume were authorized by the following act of the General Assembly, viz:

"AN ACT

For the compilation and publication of the provincial laws of Pennsylvania prior to the year seventeen hundred.

WHEREAS, There are in existence among the miscellaneous records of the several departments of the commonwealth and in private hands, original copies of the various laws enacted by the legislative assemblies of Pennsylvania, from the year one thousand six hundred and eighty-two, down to the year seventeen hundred, and also other valuable papers pertaining to the legislative doings of said years, which have a most important bearing upon the early legal history of Pennsylvania, and which have not heretofore been published:

And whereas, A compilation and publication of said original copies and other papers is desirable, since in their present shape they are inaccessible for general historical and legal reference, on account of their time-worn and mutilated condition or the fact of their being in the possession of private individuals:

And whereas, Time, expense, and tedious labor are necessary for the collection, proper examination, and correct arrangement of said original copies and other papers; therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That the secretary of the commonwealth be and he is hereby authorized to employ two or more competent persons, to whom shall be entrusted the collection, examination, and arrangement for publication of said original copies and other papers, at a cost not to exceed two thousand dollars, which sum shall be paid by the state treasurer on warrant of the auditor general, upon account duly approved by the secretary of the commonwealth and filed in the office of the auditor general.

SECTION 2. That the secretary of the commonwealth be and he is hereby further authorized to have said compilation of original copies and other papers published by the state printer in neat and durable shape, to the number of five thousand copies of each volume (should there be more than one volume of the same). Said copies to be distributed, as follows: Ten copies to each member of the senate and house of representatives, and the clerks thereof, five copies to the head of the several state departments, five copies to the Historical Society of Pennsylvania, ten copies to the state library, the balance to be sold to individuals on subscription, at a rate not to exceed one dollar per volume; the proceeds of said sale shall go into the state treasury, and be applied to meet in part the expenses of said publication.

E. REED MYER,
Speaker of the House of Representatives.
JOHN LATTA,
President of the Senate.

APPROVED—The twelfth day of June, Anno Domini one thousand eight hundred and seventy-eight.

J. F. HARTRANFT."

Charles R.

King Charles II.

Pennsylvania (Colony) Laws, statutes etc
Compilations

1801

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[illegible] TO [illegible]

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pen to dye before it come to age his portion shall be divided amongst the Surviving Children.

Administrators to give security.

Whoever pretends to Administer upon any Estate shall bring to the Court Sufficient Security, before the order shall be granted, And an Order thus obtained legally by giving in such Security to be truly accomptable to bring in a true Inventory, and to perform such things as Administered by Law are, required or enjoyned, shall not any time after be reserved, unlesse the party that obtained the Same, dye before he hath given an Accompt of the estate and obtained his Quietus in which case the Court is Impowered to grant the Administration of that Estate so not Accompted for to some other person who may by virtue thereof call the heirs Executors or Administrators of the former Administratores to accompt who shall pay out of the deceased Administrators Estate all such debts as shall be found due to the estate he administered upon in the first place.

Administrators *de bonis non.*

Executors and administrators individually liable for debts of decedent, in certain cases.

If any Executor nominated in any will and knowing thereof shall not at the next Sessions which shall be above thirty days after the decease of the party; or shall not cause the same to be recorded by the Recorder or Clarke of that Court within that Jurisdiction the deceased party last dwelt. Or if any person whatsoever shall not within the same time take Administration of all such goods as he hath, or shall enter upon of any party deceased, or if any person or persons shall alienate or Embezell any lands or goods before they have proved and recorded the will of the deceased or taken Administration, every such person so administering, or Executing shall be lyable to be sued, and shall be bound to pay all such debts respectively as the deceased party owed whether the estate of the deceased weare sufficient for the same or not and shall also forfeit.

Duty of constable on renunciation of executorship, or failure of friends to administer.

If any person shall renounce his Executorship or that none of the friends or kindred of the deceased party that shall die intestate shall seeke for Administration of such persons Estate, then the Constable of the Town where any such person shall die, shall give notice thereof to the next Court of Sessions; that so the Court may take order therein, as they shall think meet, who shall also allow such Constable due recompence for his pains But if the Constable shall fail therein, he shall forfeit forty Shillings to the publigue Treasury.

Duties of clerk of sessions.

That the Clarke of the sessions when he carries the Probates or Commissions of Administation to be signed do then also Certify unto the recorders Office at New York, the name of the testator or the party deceased the Executors or Administrators and their Security, the County and Parrish where they dwelt And the Court wherein the Administration is granted to the end that strangers and other Creditors invested in the Estate may be the better Enabled to find out the Records in which the accompts of the estate is entered and be informed how they may come to their just dues.

Memorandum.

Memorandum That what is here spoken of Executors or Administrators the like is ment; and intended also of Executrixes & Administratrixes who in such Cases are to have the same priviledges.

Amercements.

All Amerciaments and Fines that are not expresly regulated because the meritt of the Case or offence cannot be foreseen shall be imposed at the discression of the Court. Imposition and collection of fines and amercements.

That all fines and Amercements be collected by the petty Constables who are to give in an Accompt of them to the high Constable Eight days before the Sessions ensuing, and the high Constable shall give in their Accompts to the high Sherriffe eight days before the next Assizes.

Appearance.

It shall be lawful for the plaintiffe or Defendant to take out Subpencæ from the Sherriffe or under Sheriff to Summon Witnesses to give in their evidence, in Case they will not voluntaryly appear and the witnesses so summoned shall for non Appearance at the Sessions be fined twenty shillings; and for non Appearance at the Assizes forty Shillings Or such other fine or punishment as shall be adjudged by the Court for damage done to the Cause by his non Appearance Provided that noe man shall be punished for non Appearing at or before any Court or Counsel, nor for the Omission of any Office or Service, if he shall be necessarily hindred, by any Apparent Act or Providence of God; which he could neither forsee nor avoid Provided also that this Law shall not prejudice any person of his Just cost and Damage in Civill Actions. Right to subpœna witnesses. Punishment for non-appearance.

Appeal.

That no Justice of the peace that hath sate as Judge or voted in any Jnferior Court in that case he is appealed from, shall have any vote in the Superior Court appealed to; but the Case shall be there determined by such as are no way engaged in the same, by Judging or voteing formerly, And in all Cases of Appeales the Court appealed to, shall Judge the Case according to former evidence and no other, unless some material witness was not then in the Country or necessarily hindred from giveing in evidence at the triall, only rectifying what is amiss therein, and where matter of fact is found to agree with the former Court and thé Judgement according to Law; not to revoke the Sentence or Judgment; but to abate or increase Damages as shall be Judged Right. Appeals, how determined and judged.

That in all Case of appeals the appealant do put in good Security for prosecuting the Appeal and payment of Damages to the Defendant if the Appealant be Cast in the Suite for his unjust Molestation. Appellants to give security.

If the Case of Appeal be of a Criminal nature, the party shall put in Security for the good behaviour also until the hearing, but if the Case be Capitall, and the person condemned shall appeale; he shall be kept in Goale till the next Assizes and then prosecuted and tryed Accordingly. Appeals in criminal cases.

All Appeals with the Security aforesaid shall be Recorded at the charge of the party Appealing, and Certified to the Court to which they are made, and the party appealing shall briefly in writing under his owne or his Attorneys hand, give To be recorded. Reasons to be given, and returned to court.

unto the Clark of the Court from which he did appeal, the Grounds and reasons of his Appeal Six days before the beginning of the Court to which he did appeal the said Clark shall returne to that Court the said writing, and give Coppyes thereof to the defendant and whosoever shall Appeal from the sentence of any Court and not prosecute the same to effect according to Law shall besides his bond to the party forfeit to the Country the sum of Forty shillings for every such neglect.

Neglect to prosecute appeals.

How appeals to be made.

All appeals are to be made by way of Petition and the Appealant shall pay ten Shillings upon the delivery of the petion unto the Clark of the Assizes for defraying the Charges thereof, over & above two Shillings Six pence to the Clark for entring the Appeal.

Costs.

Apprisement of Goods.

Appraisements regulated.

That the Plaintiffe and Defendant shall choose each of them two indifferent men for that purpose and in Case of disagreement, the said four, or any three of them, shall choose an Umpire which Umpire so chosen shall be sworn by the next Justice of the peace, to Apprize such Goods indifferently and his Umpirage to be finall. And if the Plaintiffe or Defendant neglect to Appoint Apprizers within three days after Execution is served, notice being given them by the Sheriffe to whom the Execution was directed, that then the Sheriffe in such Case of neglect shall choose and Appoint Apprizers either for the Plaintiffe or Defendant for Apprizing the Goods by him Seized upon Execution as aforesaid That before Such Apprisement the Sheriff shall remove the goods out of the possession of the plaintiffe, and the surplusage, if any be, returned to him, but after Apprisement made as aforesaid, the property to rest in the Sherriffe for the use of the Creditor to whom the Sheriff shall give notice that he may take them into his own possession, and because there can be no Averment against a Record, the Sheriff shall make returne of the Execution to the Clark of the Sessions that granted it, by him to be entered upon Record, under the Order it was issued upon, that so the Satisfaction as well as the Judgement may be Authentickly proved, if Occation Require.

Arrest.

No arrests to be made upon certain days.

That no Sheriff nor other officer shall Execute any writt or warrent upon any person or persons either upon the Sabbath day, upon the day of humiliation for the Death of the late King of Blesed memory upon the day appointed for Thanksgiving for his Majesties happy restoration or upon the 5th day of November provided always that it shall, and may be Lawful for the Sheriff, or any other Officer to apprehend and Carry to prison, any person or persons for Riotts felony or Escape out of prison when under Execution, upon any day, at any place, any thing in the Law to the Contrary notwithstanding.

All that comes to the Sessions or Assizes for publique ser-

vice or upon Compultion upon Complaint and Examination of the matter by oath, shall be freed from any Arrest dureing their occations so long as the Court sits. Freedom from arrest.

All arrests, writs, warrants and proclamations are to be in his Majesties Name. Style of writs, &c.

No Person shall be Arrested for any Debt or fine untill the time when the Debt or fine shall become due is expired; unless it Doth appear upon Oath, that the Debtor, doth intend to convey himself away upon purpose to avoid the Action, and defraud his Creditors; In which case also, he shall not be arrested but either by Special warrant or warrant from one Justice of the peace or high Sherrife. Arrests for debt.

In case any suite or action depends between two persons of one Town, the one shall not cause the other to be arrested in any other Jurisdiction upon any pretence but by special warrant. Arrests in suits between two persons residing in same town.

Whosoever shall upon pretence of Debt or trespass Arrest any Person with intent to disinable him from giving in Testimony in any Case depending, or from prosecuting any Suite in which he stands engaged shall be punished by Fine and Imprisonment at the discression of the Court, and the person so Arrested shall be set at liberty. Neither shall the Cause, for want of such evidence, whilst under Arrest, be Adjudged to the prejudice of either Plaintiffe or Defendant. Arrests to prevent persons from testifying.

Any person under arrest except in cases not bailable may be set at Liberty to prosecute, Answer, or give in evidence at the Sessions or Assizes, Security being given for his return to prison, and in case no bail or Security can be found, the Court may send for the party by Special warrant. Persons arrested may give bail.

No mans person shall be longer imprisoned for Debt or fine than he can find Securityes for his Answering the Suite, or paying the Debt. And if it shall Appear to the Court, that the person impleaded hath a Competent man to give Satisfaction out of his Estate reall or personal for the said Debt, Then the Court shall Discharge the person and Secure the Plaintiffes debt out of the Defendants Estate. To be discharged on bail given.

All Persons of known Estates who to beget strife refuse the payment of their Just Debts if arrested and Imprisoned, shall be kept at their own charge, and not the Plaintiffes, till Surety be given or Satisfaction made Provided that no mans person shall be kept in prison for debt or fine, Longer then the Second Day of the next Sessions after the Arrest unlese the Plaintiffe shall make it appear that the person Arrested hath some Estate which he will not produce, In which Case the Court may Authorize an Oath to be Administered to the party or any other Suspected to be privie in Consealing his Estate, And the Court shall also order if no Estate can be found, that the Debtor shall Satisfie his Debt by service, if the Creditor so require, as also the charge of his arrest and imprisonment. Imprisonment for debt.

Assessments.

All assessments shall be made by the Constable and the Eight Overseers of the Parrish proportionable to the Estate of the Inhabitants in the Town or parrish where such As- How assessments to be made.

sessments is to be made, and every Inhabitant who shall not Contribute proportionably to the Rate so Assessed, shall be compelled thereunto by Atachment or distress of Goods to be Leveyed by the Constable provided that no man shall be assessed for any Estate Reall or personall which lyeth not within the same Town or Parrish where he is Assessed.

Justices of the peace exempted.

That the Justices of peace only shall be exempted from paying any publique Assessment in the place where they Inhabit dureing the time of their bearing Office payments to the Church only excepted.

To be certified to sessions.

The Towns assessment shall be certified in writing unto the Sessions, and the Justices are impowered to relieve any Inhabitant by abatement who shall make it appear that he is over Charged.

Absence or death of overseers.

In case of the necessary or Casual absence of one two or more of the Overseers when the Assessments or other Dutyes are to be performed, relating to the Constable and the Eight Overseers aforementioned it shall be lawful for the Constable and four Overseers to act and determine as if the whole Number were present, And if any one Overseer shall happen to dye during the time of his Office it shall be Lawful for the Rest of the Overseers by the Major voate to Choose an other in his place and the person so chosen, upon Refusal of the said Office shall forfeit to the Town ten pounds towards the defraying of the Towns Charges.

Assaults.

Assaults, defined.

Assaults are made either by Blowes offering of hurtful blowes, or at least by threatining & menacing speeches To rebuke an Officer with foule words, so that he departs with fear without doing his Office shall be taken for an Assault.

Punishment of servants for assaulting their masters.

A servant or Labourer convicted by Confession or two witnesses for Assaulting his Master Dame or Overseer shall be Imprissoned till the next Sessions, where he shall be brought to answer for the fault and shall receive what Corporall punishment the Court shall Ajudge Saving life and Member.

Use of force to resist assaults.

In defence of himself his wife Father or Mother Children or Servants a man may Lawfully use force to resist any attempt made to that purpose.

Attachment and Summons.

Right to issue summons or attachment.

That it shall be in the Liberty of every Plaintiffe to take out either summons or attachment against any Defendant provided no Attachment shall be granted in any Civill Action to any Forrainer or Stranger against a settled Inhabitant in this Jurisdiction before he hath given Sufficient Security or Caution to prosecute his Action, and to answer the Defendant such cost as the Court shall award him.

Notice to be given.

That in all attachments of Goods and Chattles or of Lands and hereditaments Legal notice shall be given to the party, or Left in writing at his house or place of usuall aboad, otherwise the Suite shall not procede notwithstanding if he be out of this Jurisdiction, the Cause shall then proceed to Trial; but Judgment shall not be entered before the next Court, and if the Defendant doe not then appear, Judgment

Entry of judgment.

shall be entered; but Execution shall not be granted before the Plaintiffe have given Security to be Responsible to the Defendant if he shall Reverce the Judgment within one year or such further time as the Court shall Limitt. Execution.

That no summons pleading Judgment or any kind of proceedings in Court, or Courts of Justice shall be abated Arrested or Reverst upon any kind of Circumstancial Errors or mistakes if the person and cause be rightly understood & Intended by the Court, And in all Causes when the first Summons are not served eight Days Inclusively before the Court, and the Case briefly Specified in the warrant where Appearance is to be made by the party Summoned, it shall be at his liberty whether he will appear or not, except all Cases that are to be handled in Court suddenly called on extraordinary Occation, by Special Warrant. Reversal of proceedings for mistakes. When a person at liberty to appear or not.

That all Original processe whether Summons or Attachment shall expres in whose name the party Sueth, whether in his own name or as an Executor of the last will & testament of such a man, or Administrator of the goods & Chattle of such a man, or the Assigne, Attorney, Guardian, or agent of such a man, or the like, or otherwise if Exemption be taken before the parties joyne Issue it shall be good and the plaintiffe shall be lyable to pay Cost. How original process to be issued.

Attorney.

That no justice of Peace shall at any time whilst he is in Commission be an Attorney in any Case. Justices not to act as attorneys.

That no high Sheriffe, under Sheriffe high Constable petty Constable or Clarke of the Court shall be permited to plead as an Attorney in any Persons behalfe in the Court where he Officiates, provided always that if any poore person not able to plead his own Case shall request the Court to Assign him the High Sheriffe under Sheriff high Constable petty Constable or Clark to plead for him it shall be Lawfull for the Court to grant it; And for the person to plead accordingly, But the person so pleading the poor mans Case, is not to give Judgment provided also that any high Sheriffe under Sheriffe high Constable petty Constable or Clark Acting as general Attorneys for any person, absent out of the Country, and Negotiating their Affaires, and so Lyable to be sued for their Employers such Persons shall have Liberty also to plead and prosecute in any Cause that shall any way Con-Conscerne their said Employers. Nor sheriffs, constables, or clerks of courts. Exceptions.

Assizes.

The Court of Assizes shall be held but once in the year which shall begin on the last thirsday in September at New York. When court of assizes to be held.

Vpon information from any Court of Sessions to the Governour and Councell of any Capitall Offender, unless the Court of Assizes shall happen, to be within two Months time after such Information; The Governor and Councell shall Issue forth a Commission of Oyer and Terminer for the more Speedy Trial of such Offender. Speedy trial of capital offenses.

Bayle.

Bail, defined. Baylement is the saving or delivering a man from prison before he hath Satisfied the Law, by finding Surety to Answer which is justifiable by Law.

Delivery to sureties. The person Bayled is to be delivered into his Suretyes hands.

Discharge of sureties. If the sureties shall afterwards doubt the Escape of the prisoner Bayled; a Justice of Peace upon prayer may discharge the Sureties and Commit the party to prison until he find other Security such as the Justice shall except.

Negligent escape. To Bayle one not Baylable, is a negligent Escape in the Justice.

Bailing contrary to law. To Bayle one Contrary to Law is fineable, which is to be interpreted for Bayling persons committed either by Special warrant, or for Capitall Offences.

Barratry.

Power of court to punish barrators. If any man shall be indicted proved and Judged a Common Barrator; vexing others with unjust frequent and endless Suites it shall be in the power of the Court both to reject his Cause; and punish him for his Barratry by fine or Imprisonment.

Ballast.

Punishment for taking ballast without authority. That no Ballast shall be taken from any Town Shore by any Person whatsoever without Allowance under the hands of the Constable and two Overseers upon the penalty of Sixpence for every Shovell full so taken, unless they be such Stones as they had lay there before, and that no Ship, nor other vessell shall Cast out any Ballast in the Channel or other place unconvenient; in any harbour within this Government, upon the penalty of ten pounds.

And for casting out same in harbors.

Bills.

Assignments of debts due upon bills. That any Debt or Debts due upon bill or other Speciallity Assigned to another, shall be as good a debt and Estate to the Assignee, as it was to the Assigner at the time of its Assignation, and it shall be Lawful for the said Assignee, to sue for, and recover the said Debt due upon Bill and so Assigned as fully as the Original Creditor might have done, Provided the said Assignment be made upon the Back side of the Bill or Speciallity.

Bond slavery.

Bond slavery prohibited. No Christian shall be kept in Bondslavery villenage or Captivity, Except Such who shall be Judged thereunto by Authority, or such as willingly have sould, or shall sell themselves, In which Case a Record of such Servitude shall be entered in the Court of Sessions held for that Jurisdiction where Such Matters shall Inhabit, provided that nothing in the Law Contained shall be to the prejudice of Master or Dame who have or shall by any Indenture or Covenant take Apprentices for Terme of Years, or or other Servants for Term of years or Life.

Exceptions.

Bounds.

That every Town shall sett out their Bounds within twelve Months after their Bounds are granted and that when their Bounds are once set out; once in three years, three of the Overseers of the town Appointed by the next Justice, shall appoint with the Adjacent Towns, the Auncientest Town to give notice to the neighbours Towns to go the Bounds betwixt their said Towns and renew their Marks, The time of preambulation to be between the 20th and last of February and at the charge of each particular Town upon the penalty of five pounds for every Town that shall neglect the same. Bounds of towns, to be set out. Renewal of marks.

If any particular Town lott or Lands lying in Common with others shall refuse to go the Bounds between his Lands and other mens once a year, being requested thereunto upon one weeks warning he shall forfeit ten shillings for every day so neglected, one half to the party moving thereto, And the other half to the Town. Refusal to go the bounds between lands.

And whereas many Contentious Suites do arise about the bounds Limits and titles to lands appertaining to Towns or particular persons occationed much through the unskilfulness or fraud of pretended Surveyors, for prevention whereof for the future, No Surveyor of Lands shall give a plott of any lands Surveyed by him unto any other person or persons whatsoever, then such as Employed them, until six Months after such Plott is Drawn according to its Survey, And that one Plott so drawn describing the bounds and Limits of the Town shall be kept in the Records of each particular Town, and another plott so drawn and delivered to the Clark of that Court of Sessions to which that Town Relates, within Seven Months after the Survey shall be so made. Surveys.

Brewers.

That no person whatsoever shall henceforth undertake the Calling or work of Brewing Beere for Sale, but only such as are known to have Sufficient Skill and knowledge in the art or Mistery of a Brewer, That if any undertake for victualling of Ships or other Vessels or Master or owner of any such Vessels or any other person shall make it appear that any Beer bought of any person within this Government do prove unfit unwholsome & useless for their supply, either through the insufficiency of the Mault or Brewing or unwholsome Cask the Person wronged thereby, shall be and is hereby enabled to recover equal and Sufficient damage by Action against that Person that put the Beer to Sale. Brewers to be skilled in the art. Sale of unwholesome beer.

Births Marriages & Burials to be Registered.

The Names and Surnames of every Inhabitant within the Several Parrishes within this Government shall be Registered, and to prevent future inconveniences which may arise about the age of Orphants, The Certaine Marriage of Men and Women or the decease of persons imported into this Country whereof no positive Certificate can be granted, as to the age of one, Marriage of another or the Death of another, The Minister or Town Clark of every parrish shall Registry of marriages, births, and deaths.

well and truly and plainly Record all Births Marriages and Burials that shall happen within his Respective parrish, in a Book to be provided by the Churchwardener for that purpose, And if any Master of a family or other person Conscerned shall omitt the giving notice to the said Minister or Town Clark, of the Birth Marriage and Death of any to him or them Related the space of one Month Such person for his neglect shall be fined five Shillings. And the Minister or Town Clark shall have for his entry of such Birth Marriage or Death four pence, And if the Minister or Town Clark shall neglect entering the same as aforesaid he shall be fined upon Discovery made thereof to the use of the parrish.

Burials.

Burials, regulated. Whereas the private Burial of Servants and others give occasion of much Scandal against divers persons and So divers times not undeservedly of being guilty of their Death from which if the person Suspected be innocent, there can be no vindication, nor if guilty no punishment by reason they are for the most part Buried without the knowledge or view of any other then such of the family as by nearness of Relation, as being Husband Wife or Child are unwilling or Servants, are fearfull to discover it, if Murder were Commited, for remidy whereof, and for the greater decency of Burials, There shall be within every parrish of this Government, one or more places appointed according to the extent of the parrish, to be set apart and fenced in for publique places of Burial, and before the Corps be Buryed there shall be three or four of the neighbours Called, of which one shall be one of the Overseers of the parish, who may in Case of Suspicion view the Corps and if none, yet according to the decent custom of Christendom they may accompany it to the grave, And that no person whether free or Servant, shall be Buried in any other place then those so appointed, unless such who by their own appointment in their life time have signified their desire of being intered in the Burial place of some other parish.

Capital Lawes.

Denial of true God, punishment for. 1. If any person within this Government shall by direct exprest, impious or presumptious ways, deny the true God and his Attributes, he shall be put to death.

Murder. 2. If any person shall Commit any wilful and premeditated Murder, he shall be put to Death.

Slaying defenseless with sword. 3. If any person Slayeth another with Sword or Dagger who hath no weapon to defend himself; he shall be put to Death.

Killing by lying in wait. 4. If any man shall slay, or Cause another to be Slain by lying in wait privily for him or by poisoning or any such wicked Conspiracy; he shall be put to Death.

Buggery. 5. If any man or woman shall lye with any Beast or Bruite Creature by Carnal Copulation they shall be put to Death, and the Beast shall be Burned.

6. If any man lyeth with mankind as he lyeth with a wo-

man, they shall be put to Death, unless the one party were Forced or be under fourteen Years of age, in which Case he shall be punished at the Discretion of the Court of Assizes. Sodomy.

7. If any person forcibly Stealeth or carrieth away any mankind; He shall be put to death. Kidnapping.

8. If any person shall bear false witness malliciously and on purpose to take away a mans life, He shall be put to Death. Bearing false witness to take away life.

9. If any man shall Traitorously deny his Majestyes right and titles to his Crownes and Dominions, or shall raise Armes to resist his Authority, He shall be put to Death. Treason.

10. If any man shall treacherously conspire or Publiquely, attempt to invade or Surprise any Town or Towns, Fort or Forts, within this Government, He shall be put to Death. Invasion and surprise of towns and forts.

11. If any Child or Children, above sixteen years of age, and of Sufficient understanding, shall smite their Natural Father or Mother, unless thereunto provoked and forct for their selfe preservation from Death or Mayming, at the Complaint of the said Father and Mother, and not otherwise, they being Sufficient witnesses thereof, that Child or those Children so offending shall be put to Death. Smiting father or mother.

Cattle Corn Fields Fences.

Every Person interested in the improvement of Common fields inclosed for Corn or other Necessary use shall from time to time, make and keep his part of the fence Sufficiently strong and in constant repair, to secure the Corn and other fruits therein, and shall not put, cause or permit any Cattle to be put in so long as any Corn or other fruits shall be growing or remain upon any part of the Land so Enclosed, unless by some general exprest agreement of such as are interested, and if at any time the owners or occupiers of any such inclosed Lands, Cannot or do not agree in any part of the premisses Then upon due and Seasonable notice given to the Constable and Overseers of the Town they shall appoint a Convenient time to hear and order such differences, and Settle a due way of fencing improving and preserving such fields and the fruits of them, And whosoever shall Oppose or transgress shall be lyable to all damage proved to grow thereby and to such further fine for breach of order as the Overseers shall Judge meet. Fencing, improving, and preserving of fields.

And the said Constable and Overseers shall from year to year appoint one or two or more of the planters for all or each Common field belonging to the Town where they dwell; to view the Common fences within their trust and to take due notice of the real defects and insufficiency thereof, and shall forthwith acquaint the owners with the same, and if the said Owners or occupiers do not at furthest within Six Days or sooner if the said Constable and Overseers see Cause, and so appoint Sufficiently Repaire, or Cause the same to be Sufficiently Repaired, he or they shall forthwith upon the demand of the appointed viewer or viewers (besides other Just damages) pay as a fine to the Town Twelve pence for every Rod, if there be a considerable quantity of such defective fence together, or for every Single defect in such faulty fence, or the said viewer or viewers taking due witness of the de- Fence viewers. Neglect to make repairs.

fects, may if it Suite their Conveniency forthwith repair or renew them or Cause them to be repaired or renewed, and shall have double recompence for the same, to be paid, besides, other Damages, by the Owners or Occupiers of the said insufficient fence or fences.

Damages. And in iether Case if payment be denied or delayed the said Constable & Overseers shall Levy the same forthwith upon the Estate of the delinquent to the use of the viewer or viewers.

Security from cattle by fencing. And where Lands lye in Common unfenced, if one man shall improve his Land by fencing in several and others, one or more shall not, he who shall so improve, shall Secure his Land from other mens Cattle, unruly Cattle excepted, who shall Compell no man to make any fence with him except he also Improve in Several.

Line fences. And where one man shall improve before his neighbour & so make the whole fence. If his said neighbour shall after improve; he shall then Satisfie for half the other fence against him; according to the present vallew and shall maintain the same, and if the first man shall after lay open his field or land, then the said Neighbour shall both enjoy his said half fence so purchased, and shall have Liberty to buy the other half fence against his Lands paying according to the present worth as it shall be rated by two men Indifferently Chosen, and the like order shall be when any man shall improve Land against or Adjoyning to a Town Common provided this extend not to house Lotts in which if one man improve his Neighbour or Neighbours shall be Compellable to make and maintain one half of the fence between them whether he or they improve or not, provided also that no man shall be Lyable to damage done in any ground not sufficiently fenced and himself not interested in the defective fence, or some part of it, Except the damage were done by Prohibited or unruly cattle of any sort, in which Swine are Included which cannot be restraned by ordinary fence or where any shall unwarrantably put in Cattle of what Sort, or under what Coulor or pretence whatsoever, or otherwise wilfully tresspass upon his Neighbours ground.

Non liability for damages in certain cases.

Cattle and swine to be marked. All Cattle and hoggs shall be markt with the publique mark of the Town to which they belong and the private mark of the owner, and when they are Sould to any other Town, the Purchaser shall cause the Towns mark of the place where he Inhabiteth, besides his own particular mark to be sett on, or over the mark of the Town from which he bought them.

How horned beasts to be marked. All horned Beasts shall be marked upon the Horne with the Town mark to which they belong.

Impounding of unmarked swine and cattle. That whatsoever Swine or greater Cattle, horses excepted shall be found in the woods or Commons unmarked are Lyable to poundage or being either pounded or otherwise prosecuted & proved, The owners shall pay for each Swine unmarkt three Shillings four pence of which half the fine to the pounder or prosecutor and the rest to the Constable and & Overseers, and for each of the greater sort of Cattle Six Shillings, whereof half shall be ordered to the pounder or prosecutor & the rest to the Constable & Overseers, but if

the owners be not known or found, then every such swine or Beast of a greater kind to be duely cryed, that the owner may take notice Claime his interest and pay the fine and Charges.

Sale when no owner found.

But if no owner be found, then after due Apprizement by Indifferent men Chosen by the Constable and Overseers of the place and the same recorded in the Court of Sessions, Sale to be so fairly made, that the fine and Charges may be fully paid & the remainder kept by the Constable, till the owner be known and the rest of such swine or Cattle, being first markt with a publique Town mark or Brand with some Distinction from the mark of particular men to be again turned into the woods.

Cattle prohibited from running at large, unless shackeled.

That no owner of Cattle of what kind soever after knowledge or notice given, that any Cattle of his whether Horse or other Beast or Swine, is unruly in respect to fences shall Suffer any such to go at Liberty, either in Common or against Corn fields or other impropriated enclosed ground fenced as aforesaid, but shall either Constantly keep them upon his own ground, within Sufficient fences all his own or put and keep upon each of them such shakles and fetters or yoakes and Rings as may Sufficiently from time to time Restrain them and prevent trespass or shall pay all Damage and Charges, whether in Corn or other fruit with hurt in fences, expences of time, help in Catching, pounding, driving out and bringing home any such unruly Cattle, of what kind soever, with such further fine for breach of order, and Court Charges if the plaintiffe be put to recover it that way, as the Court of Sessions shall Judge meet.

Damages.

Constables' fees.

For impounding of Cattle for trespass upon Corn or Meadow grounds, for each Horse, or Mare, Bull, or Cow, above two years to be paid to the Constable one peny per head.

Cost of keeping, to be paid.

For all Cattle under two years old and for Sheep or Hoggs, one half penny per head; Provided always that the said Cattle sheep or hoggs be taken in the Trespass, then to pay as before said, and not otherwise, Moreover the owner of the said Cattle Sheep or Hoggs shall pay just Cost for the Nourishm nt of them so Impounded till they find Bail to Answer or shall Compound for the trespass before it comes to Court.

Granting of replevin by constable.

Although it be in the Constables power to impound yett he shall not grant a Replevin without two Overseers who are to take Security to answer the trespass, and if the Cattle impounded be worth five pounds or above, the owners shall pay five Shillings, if under shall pay one Shilling for the Replevin, But if the party damaged shall agree with the trespasser then to pay only for impounding as aforesaid.

Causes.

Rates of payment of causes.

Every Cause of five pounds or under, shall pay two shillings Sixpence, if the Cause be of ten pounds it shall pay five Shillings if above ten pounds to twenty pounds there shall be paid ten Shillings, and for every ten pounds more two Shillings Six pence.

That all causes shall be heard and tryed according to their

Hearing and trial of causes.

priority of entrance, and if it shall happen that the Justices have Leasure and can dispatch the Causes of which due entry was made before the time of Sessions is expired, It shall be Lawful for the Justices to hear and determine any other Cause or Causes Action or Complaints in as full and Ample manner as if due Entry had been made, both the parties being agreed to come to an issue, any thing to the Contrary in any other Law Notwithstanding.

Church.

Preamble.

Whereas the publique Worship of God is much discredited for want of painful & able Ministers to Instruct the people in the true Religion and for want of Convenient places Capable to receive any Number or Assembly of people in a decent manner for Celebrating Gods holy Ordinances These ensueing Lawes are to observed in every parish (Viz.)

Church to be built in each parish.

1. That in each Parish within this Government a church be built in the most Convenient part thereof, Capable to receive and accommodate two Hundred Persons.

Overseers and church wardens.

2. That For the making and proportioning the Levies and Assessments for building and repairing the Churches, Provision for the poor, maintenance for the Minister; as well as for the more orderly managing of all Parochiall affairs in other Cases exprest, Eight of the most able Men of each Parish be by the Major part of the Householders of the said Parish Chosen to be Overseers out of which Number the Constable and the aforesaid Eight Overseers shall yearly make choice of two of the said number, to be Church wardens and in case of the Death of any of the said Overseers and Church wardens; or his or their departure out of the parish The said Constable and Overseers shall make Choice of another to Supply his Room.

Oath of allegiance to be taken.

3. Every Overseer is to take the Oath of Allegiance at the time of his Admittance into his Office in the Presence of the Minister Overseer and Constable of the parish, besides the Oath of his office.

Ministers to produce testimonials.

4. To prevent Scandalous and Ignorant pretenders to the Ministry from intruding themselves as Teachers; No Minister shall be Admitted to Officiate, within the Goverment but such as shall produce Testimonials to the Governour, that he hath Received Ordination either from some Protestant Bishop, or Minister within some part of his Majesties Dominions or the Dominions of any foreign Prince of the Reformed Religion, upon which Testimony the Governour shall induce the said Minister into the parish that shall make presentation of him, as duely Elected by the Major part of the Inhabitants householders.

Duties of ministers.

5. That the Minister of every Parish shall Preach constantly every Sunday, and shall also pray for the Kinge, Queene, Duke of Yorke, and the Royall family. And every

Punishment for disturbing congregations.

person affronting or disturbing any Congregation on the Lords Day and on such publique days of fast and Thanksgiving as are Appointed to be observed. After the presentments thereof by the Churchwardens to the Sessions and due Conviction thereof he shall be punished by fine or Imprison-

ment according to the merrit and Nature of the offence, And every Minister shall also Publiquely Administer the Sacrament of the Lord's Supper once every Year at the least in his Parish Church not denying the private benifit thereof to Persons that for want of health shall require the same in their houses, under the penalty of Loss of preferment unless the Minister be restrained in point of Conscience. Administration of sacrament of Lord's Supper.

6. No Minister shall refuse the Sacrament of Baptism to the Children of Christian parents when they shall be tendered under penalty of loss of preferment. Baptisms.

7. Ministers are to Marry Persons after Legal publication or Sufficient Lycence.

8. Legal publication shall be so esteemed when the persons to be Married are three Several Days asked in the Church, or have a Special Licence. Marriages.

9. Sundays are not to be prophaned by Travellers Labourers or vicious Persons. Profanation of Sundays.

10. That no Congregations shall be disturbed in their private meetings in the time of prayer preaching or other divine Service Nor shall any person be molested fined or Imprisoned for differing in Judgment in matters of Religion who profess Christianity. Disturbance of religious meetings.

11. No Person of Scandalous or vicious Life, shall be Admitted to the holy Sacrament, who hath not given Satisfaction therein to the Minister. Admission to holy sacrament.

Church Wardens.

That Church wardens shall twice every year (viz) on the Second day of the Sessions, to be held in June; and on the Second day of the Sessions, to be held in December, In open Sessions deliver a true presentment in writing of all such misdemeanors as by their knowledge have been Committed and not punished whilst they have been Churchwardens. Namely, Swearing, prophaness, Sabbath breaking Drunkenness, fornication, Adultery, and all such abominable Sinnes; The said Churchwardens are also hereby impowered to cause any person upon whose report they ground their presentment to appear at the respective Sessions to which the presentments are made to give in their evidences concerning the same, and the refusers shall be Lyable to be fined at the Sessions. Duties of church wardens.

Charges Publicke.

The Charges of all Officers Civill and Military to whom no other fees are expressly granted and appropriated shall be Annually paid out of the Common Treasury in reall and good payment, or Assignation to his or their Satisfaction. Payment of public charges.

Every Inhabitant shall Contribute to all Charges both in Church and State, whereof he doth, or may receive benefit according to the equall proportion of his Estate. Contributions thereto.

Children and Servants.

The Constable and Overseers are strictly required frequently to Admonish the Inhabitants of Instructing their Children and Servants in matters of Religion, and the Lawes Instruction of children and servants.

of the Country, And that the Parents and Masters do bring up their Children and Apprentices in some honest Lawfull Calling Labour or Employment. And if any Children or Servants become rude Stuborne or unruly refusing to hearken to the voice of their Parents or Masters the Constable and Overseers, (where no Justice of Peace shall happen to dwell within ten miles of the said Town or Parish) have power upon the Complaint of their Parents or Masters call before them Such an Offender, and to Inflict such Corporall punishment as the merrit of their fact in their Judgment shall deserve, not excepting ten Stripes, provided that such Children and Servants be of Sixteen years of age.

Punishment for disobedience.

Chirurgions, Midwives, Physicians.

Practice of professions of surgery, midwifery, and medicine.

That no Person or Persons whatsoever, Employed about the Bed of Men women or Children at any time for preservation of Life or health as Chirurgions, Midwives, Physicians or others; presume to Exercise or put forth any Acte Contrary to the known approved Rules of Art in each mistery or Occupation, or Exercise any force violence or Cruelty upon, or to the Bodies of any whether Young or old; without the advice and Counsell of the such as are Skillfull in the same Art (if such may be had,) or at least of some of the wisest and gravest then present and Consent of the patient or patients if they be Mentis Compotes: much less Contrary to such Advice and Consent upon such severe punishment as the nature Of the fault may deserve, which Law nevertheless is not intended to discourage any from all Lawful use of their skill but rather to encourage and direct them in the right use thereof, and to inhibit and restrain the presumptious arogancy of such as through Confidence of their own skill, or any sinister Respect, dare bouldly attempt to Exercise any violence upon or toward the body of young or old one or other, to the prejudice or hazard of the Life or Limb of man, woman, or Child.

Courts.

Court of sessions.

That the names of the Severall Courts to be held in each Riding three times in the year, shall be called the Court of Sessions.

And whereas there is great Respect due, and by all persons ought to be given to Courts which so nearly represents his Majesties sacred Person, and that such order, gravity and decorum, which doth manifest the Authority of a Court, may be maintained. These rules and formes following are to be observed for begining Continuing and proceeding in the said Court.

When to begin.

The Courts of Sessions are to begin in the East Riding the first Tuesday in June: In the North the Second Tuesday and the third Tuesday following in the West Riding, They are to Continue the Sessions in each place three days, if need So require, but no longer, the second Court of Sessions shall be held the first Second and Third Wednesdays in December, The third Sessions are to be the first, Second and third wednesdays in March.

The Stile of the Court to be entered thus.

Style of court, and opening same.

At a Court of Sessions held at——the——day of——by his Majesties Authority in the Seaventeenth year of the Raigne of our Soveraigne Lord Charles the Second by the grace of God of Great Brittaine France and Ireland King; Defender of the Faith &c: And in the year of our Lord God 1664 present.

Insert the name of the Governoure. Silence Commanded Then let the Cryer or under Sheriffe make proclamation and Say O yes O yes O yes.

Silence is Commanded in the Court whilest his Majesties Governor Counsel and Justices are Sitting upon pain of Imprisonment.

After Silence is Commanded Lett the Cryer make Proclamation Saying; All manner of Persons that have any thing to do at this Court, draw near and give Attendance; and if any one have any Plaint to Enter, or Suit to procecute, Lett them come forth and they shall be heard.

When Silence is thus commanded, and Proclamation made upon Calling the Dockett, the Cryer shall Call for the Plaintiffe.

Calling for the Plaintiffe.

Calling plaintiff.

A. B, come forth and prosecute thy Action gainst C. D. or else thou wilt be non Suited. And the Plaintiffe putting in his Declaration, the Cryer shall Call for the Defendant.

Calling for the Defendant.

Calling defendant.

C. D; come forth and save thee and thy Bayle, or else thou wilt forfeit thy Rocognizance.

For proceeding in the said Court

Warrants to be Issued by the Clerk.

Speaking in derogation of court, punishment for.

Whosoever shall speak in Derogation of the Sentence or Judgment of any Court, shall be fined at the Discretion of the next Court of Sessions or Assizes.

Constable.

Duties and powers of constables.

That the Constable shall whip or Punish any one to be punished by Order of Authority, where there is not any other Officer appointed to do it, in their own Towns, unless they can get an other person to do it.

That any and every Person tendred to any Constable of this Goverment, by any other Constable or other Officer belonging to any Jurisdiction within this Goverment, or by warrant from any Justice shall be presently received and Conveyed forthwith from Constable to Constable till they be brought to the place to which they were sent, or before some Justice of the peace who shall dispose of them as the Justice of the Cause shall require; All Hue & Cryes shall be duly received and diligently pursued to full effect And where no Justice of the Peace is near, Every Constable shall have full power, to make Sign and put forth pursuites or Hue and Cryes after Murtherers Man Slayers Theves Robbers Burglurers and other Capitall Offenders, as also to Apprehend

without warrant such as are overtaken with Drink, Swearing, Sabbath breaking, Vagrant persons or night walkers provided they be taken in the manner, either by the Sight of the Constable or by present information from others, As also to make search for all such Persons either on the Sabbath Day or other when there shall be Occasion in all Houses Licensed to sell either Beer or Wine or any other Suspected or disordered places and those to Apprehend and keep in Safe Custody till oppertunity Serves to bring them before the Next Justice of the peace further Examination, Provided that when any Constable is Employed by any Justice for apprehending of any person he shall not do it without a warrant in writing. And if any person shall refuse to Assist any Constable in the Execution of his Office in any of the things aforementioned being by him required thereto, They shall pay for neglect thereof ten Shillings to the use of the Town of which he is Constable To be Levyed by warrant from any Justice before whom such Offender shall be brought And if it appears by good Testimony that any shall wilfully or Contemptuously refuse or neglect to assist any Constable as is before expressed, he shall pay to the use aforesaid forty Shillings And that no man may plead Ignorance for such Neglect or Refusal, Every Constable shall have a Staff of about six foot long, with the Kings armes on it as a badge of his Office which Staff shall be provided at the charge of the Town. And if any Justice of peace Constable or any other, upon urgent Occasion shall refuse to do their best endeavours in raising and prosecuting Hue and Cryes by foot and if need by Horse after such as have Committed Capital Crimes: They shall forfeit for every such offence to the use aforesaid forty Shillings The Constable and every two Overseers may take Bayle for any Person Arrested within their precincts if not in Execution or Commited by Special warrant,

Punishment for refusing to assist constables.

Badges of office.

Punishment for refusing to raise hue and cry.

Right to take bail.

That Every Constable within his Jurisdiction, shall on the penalty of five pounds Clear up his Accompts with the High Constable for all fines Amerciaments or what other publique money of the goods he shall receive, one whole month before the expiration of the year of his Office, And they and every of them are impowered to press Boats or Carts: for the more Speedy Sending in of what they have so Collected according to the time appointed, and if any Constable shall not have Collected the said fines and Amerciaments Commited to his Charge by the High Constable; during the time of his Office that he shall notwithstanding the Expiration of his Office have power to Levy by distress all such fines Amerciaments and Levyes, and if he bring them not into the high Constable according to his warrant The high Constable shall distrayne such Constables Goods for the Same.

Accounts for fines and amerce-ments.

Election of constables.

Constables shall be chosen in all Towns upon the first day of April, or Second, yearly, by the plurality of the votes of the freeholders in each Town; that is to say one of the four Overseers, into whose places new ones are chosen for the ensuing year, shall be chosen to Officiate as Constable within their Town, Whose name and person shall be presented by the Old Constable and Overseers to the next Sessions ensu-

ing there to be Confirmed by the Justices of the peace by taking the oath appointed for Constables.

Conveyances, Deeds & Writings.

That henceforth no Sale or alienation of Houses and Lands within this Goverment, shall be holden good in Law except the same be done by Deed in writing under hand and Seal and delivered and possession given upon part in the name of the whole by the Seller or his Attorney so Authorized under hand and seal, Unless the said Deed be Acknowledged and Recorded according to Law. Requisites of a conveyance of real estate.

That all Deeds and Conveyances of Houses and Lands within this Goverment wherein an Estate of Inheritance is to pass, it shall be expressed in these words: or to the Like effect (viz) To have and to hold the said houses and Lands Respectively to the party or grantee, his heirs and Assigns forever, Or if it be an Estate Entailed, then to have and to hold &c: to the party or grantee and to the Heirs of his body Lawfully begotten between him and such an one his Wife; or to have and to hold to the Grantee for terme of Life, or for so many years, Provided that this Law shall not include former Deeds and Conveyances, but leave them in the same Condition as they were, or shall be in before this Law shall take effect; which shall be from the publication thereof Provided also That this Law shall not extend to Houses or Lands given by will or Testament or to any Land granted or to be granted by the Inhabitance of a Town. How conveyances of estates of inheritance to be expressed.

That no Conveyance Deed or Promise, whatsoever shall be of Vallidity if it be obtained by illegal violence imprisonment threatnings or any kind of forcible Compultion called Dures. Deeds illegally obtained.

All Covenants or fraudulent Alienations or Conveyances of Lands Tenements or any hereditaments shall be of no force or validity to defeat any man from his due Debts or Legacies or from any just Tithe Claime or possession of that which is so fraudulently Conveyed. Fraudulent alienations.

That after the time aforesaid no Morgage Bargain Sale or Grant made of any Houses, Lands Rents or other Hereditments where the Granter remains in possession shall be of force against other Persons Except the Granter and his heirs unless the Same be acknowledge before some Justice of the peace or Superior Officer in the Goverment and Recorded as is hereafter expressed. And that no Such Bargain Sale or Grant already made in any way of Morgage where the Granter remains in possession shall be in force against others; but the granter or his Heirs except the same shall be entred as is here expressed (that is to say) within one month after the date before mentioned if the party be within this Gouverment or else where within three Months after he shall returne, And if any such Granter shall refuse being required by the Grantee his Heirs or Assigns to make an acknowledgment of any grant, Sale, Bargain or Mortgage, by him made shall refuse so to do, It shall be in the power of any Justice of peace, to send for the party so refusing, and Commit him to prison without Bail or Mainprize, unless he shall Acknowledgment and recording of deeds.

Acknowledge the same, and the Grantee is to enter his Caution with the Clerk of the Court of Sessions and this shall save his Interest in the mean time, And if it be doubtful whether it be the Deed or Grant of the party he shall be bound with Sureties, to the next Court of Sessions, and the Cautient shall remain good as aforesaid.

And for the Recording of all such Grants, Sales, and Mortgages That every Clerk of every Court of Sessions shall enter all such Grants, Bargains, Sales, and Mortgages of Houses Lands, Rents and Heriditaments as aforesaid together with the estates of the Granter and Grantee; things and Estates granted, together with the Date thereof.

Councell.

Powers of councell.

Any Person who shall be sworn of the Counsell to the Governour shall in any place within this Goverment have in all respects the Power of a Justice of Peace and in any Court of Sessions may sit as President.

Condemned.

Execution and burial of condemned.

That no man Condemned to die, shall be put to death within four Days next after his Condemnation unless the Governour see Special Cause to the Contrary; or in Cause of Martial Law. And the Persons Executed shall be buried near the place of Execution.

Defamation.

Defamatory actions.

That no Action shall be Admitted for defamation in any Court where the words are not Actionable & no words shall be Estemed, Actionable, but such as if true might have brought the person to Suffer punishment by Law, any other to be cast out of the Court, and the Plaintiffes to be nonsuited and because offences of this Nature may be Speedily Determined any Justice of peace is hereby Authorised and impowered to hear and Determine them and likewise to bind the Persons so Offending to the good behaviour or if they find not good Security for the Same to commit them to prison till they find it.

Dowryes.

Forfeiture of dower.

If any Woman shall Causelesly absent herself from her Husband of which he shall make Complaint to the Court of Sessions If upon certaine time given her by the Court, shee shall refuse to return, shee shall forfeit her Dowry unless the Husband shall afterwards upon a New agreement Confirm the same.

Fasting Days and Days of Thanks givin To be Observed.

Certain days of fasting and thanksgiving to be observed.

Whereas by an Act of Parliament the fifth Day of November is annually to be observed for the Great deliverance from the Gunpowder Treason. And whereas by one other Act of Parliament The thirtyeth Day of January is annually to be observed with Fasting and Prayer in all his Majesties Dominions to shew a hearty and Serious Repentance and Detestation of that Barbarous Murther Committed upon the

Person of our late King Charles the first, thereby to divert Gods heavy Judgment from falling upon the whole Nation, as also by an other Act of Parliament we are enjoyned thankfully to acknowledge the providence of God upon the Nine and Twentyeth Day of May for his Majesties Birth and Resturation to the Throne of his Royall Ancestors whereby Peace and unity is Established in all his Majesties Dominions, Every Minister within his Severall Parish is enjoyned to pray and Preach on these days and all other Persons are also enjoyned to abstain from their Ordinary Laboure and Calling According to the true intent of both the said Acts.

Fees of Justices of Peace.

Fees of justices of the peace.

	S.	D.
For Nominating three Arbitrators when a Case under Forty Shillings is brought to him by the Constable	7	6
For warrants of appearance to answer all sorts of Actions at the Court or binding over to the Sessions or the Assizes for the good behaviour or the peace	2	6
Upon plaints of Debt or Damage	1	6
Upon Common Actions, as Slander or the like	1	0
Upon Subpœna for each Person	0	6

Nothing is to be paid for warrants in Criminall and Capitall Causes.

No Fees for doing his Office, as a Justice upon y^{e} Bench.

The Justices Charges are to be bourne, both at the Sessions and Assizes out of the fines and Amerciaments.

Fees of Petty Constables.

Petty constables.

	S.	D.
For Collecting of the Assessments Amercements and fines and paying them into the high Constable per pound	1	0
For Attachments, or Apprizements of Goods per pound	0	2
For Assisting upon Common Action, the plaintiffe to pay his	1	6

No Fees are to be paid for executing of Speciall warrants or apprehending Criminal or Capitall Offenders but are to be done ex offiso.

Fees for the High Constable and under Sheriffe.

High constables and under sheriffs.

	S.	D.
For receiving the Assessments Amercements & fines from the petty Constable and paying them into the Sheriffe per pound	0	6
For every Judgment in Court or Virdict	1	0
For the Summoning and Empannelling a Jury	0	4

Fees of the Sheriffe.

Sheriffs.

	S.	D.
The Sheriff shall have of the Plaintiffe upon all Arrests whether by Bill Writ or warrant	1	8
Vpon every Execution that shall be Served if under one Hundred pounds for each pound	1	0

	S.	D.
For what shall be above one Hundred pounds for each pound	0	6
For receiving the Assessments Amercements and fines from the high Constable & paying them into the Treasury per pound	0	6
For going into Prison	1	6
For whipping	2	6
For pillory	2	6
For a warrant of attachment	1	0
For the Sheriffs warrant to Summon and Empannell a Jury for each Cause	1	6
And for other trouble not here exprest, other reasonable fees shall be allowed by the Court		

For Fees of the Clarke of the Court of Sessions Who is also Clarke of the writts.

Fees of clerk of court of sessions.

	S.	D.
For entering every Action for Tryall	2	6
For entering and recording a bargain and Sale of Lands or Houses Inventoryes or Conveyances if under 24 linnes	2	6
For entering a will or Administration for himself, if under 24 lynnes	1	6
If above for every 12 lynnes more	0	6
For the fees of the Office of Record for which he is to be Accomptable their	2	6
For entering a Judgment of Court	3	0
For entering an execution	1	6
For Entering an Order of the Court	1	0
For the Coppy	1	0
For Entring an Attachment	1	6
For Entering A Deposition	1	0
For Entering A Petition	0	6
For Entering A Certificate	1	0
For the Entring and Recording of any other business (orphants excepted) for the first and Second pages	2	6
For every page more	0	6
For licences to Innkeepers and Victuallers	2	6

The Fees of the Clerk of Assizes.

Clerk of assizes.

That all charges of Officers or Attendants upon Causes at the Assizes shall be double to these of the Sessions and to be Levied in the same manner.

If any thing shall be done by the Clerk of the Assizes or the Clerk of the writs of either Court; more than is here expressed, the Justices are to Adjudge them a Farther fee, either at the Sessions or Assizes According to his merritt for greater pains taken

Fees for the Court.

Fees for court.

	S.	D.
For returning Appeals to the Assizes with all the Circumstances whereof the Court of Sessions hath taken cognizance towards the defraying of Court Charges	6	8

	S.	D.
For the Coppy of an Appeal and Causes	2	6

Fees for the Cryer of the Court.

Fees of court crier.

	S.	D.
For Calling the Jury for each Cause	1	0
For swearing every witness	0	4
For A non Suit	1	0
For non appearance of witnesses upon Subpeane .	0	4
For every verdict	0	4

Fees for the Marchall.

Marshall.

	S.	D.
For receiving into ward	1	0

It is to be the Mareschals care to provide a convenient Room or place for the Jury to retire into.

	S.	D.
For every verdict brought in while the Court sits,	0	6
If the Jury Stay together all Night before delivery of the Virdict	2	6

The Marshall is to receive no Prisoner but such as are Commited by warrant, excepting only in such present Occasions, where a warrant cannot duly be obtained Provided that he shall not refuse any Prisoner brought him by any known Officer, the said Officer obliging himself to deliver in a warrant to the Marshall for his so doing within twenty four hours.

The ordinary Rate and Allowance for the dyett of every Prisoner to the Marshall, shall be p diem eight pence and he shall demand no more; Provided always that any Prisoner for his better accommodation either for Lodging or Dyett; may agree with the Marshall upon a further Price.

Fornication.

Fornication, punishment for.

If any Person commit Fornication with any Single woman they shall both be punished by enjoyning Marriage, fine or Corporal punishment, or any of those According to the discretion of the Court.

Forgery.

Forgery.

If any Person or Persons whatsoever shall forge any Deed or Conveyance, testament, Bond, Bill, Release, Acquittance, Letter of Attorney, or any writing to prevent Equity & Justice they shall Stand in the Pillory three Severall Courts Days and render double damages to the party wronged and also be disable to give any Evidence or verdict to any Court or Magistrate.

Fires or Burnings.

Arson.

If any Person or Persons whatsoever shall set on fire any dwelling House Church or store houses or to that purpose shall set on fire any Out house, Barne, Stable Stack of Hay, Corne or wood, or such like Combustible matter, Maliciously and willingly, He shall be Commited to Prison, there to remain without Bayle till the next Sessions, where if con-

vinced by proofe or Confession of the Crime he shall be Commited to prison there to remain without Bayle till the Next Sessions where if convicted by Proofe or Confession of the Crime, he shall remain in Prison till the next Assizes, there to Receive Judgment to Death, or full Satisfaction out of his Lands Goods, or Cattles to the party or parties damnified according to the good Discretion of the Bench.

Firing woods, commons, &c.

If any Person whatsoever shall kindle any fire in the woods or Grounds lying in Common, or in his own Grounds so as the same shall runne into any Corne Grounds or Enclosures of his Neighboures, he shall be Lyable to pay all Damage; of whatsoever Sort, and half so much more for a fine; or if not able to pay the Court shall Adjudge the Person guilty of Corporal punishment not exceeding tweenty Stripes, or do Service to Expiate the Crime.

Fugitives.

Runaway apprentices and servants, provisions relative to.

Every Apprentice and Servant that shall depart or absent themselves from their Master or Dame without leave first obtained shall be Adjudged by the Court to double the time of such their absence by future Service over and above other Damage and Cost which the Master or Dame shall Sustain by such unlawful departure and whosoever shall be proved to have Transported, or to have Contrived the Transportation of any such Apprentice or Servant shall forfeit twenty pounds to the Master or Dame and be fined five pounds to the Court, and every Inhabitant that shall harbour or entertain any such Apprentice or Servant, knowing that he hath absented himself from his Service, upon due proof thereof shall forfeit to the Master or Dame ten shillings for every Days entertainment or Concealment.

Transporting and carrying away debtors, without license.

If any Master of Shippe or vessell shall Transport or carry away any freeman whether Merchant or housholder that is, or shall be Indebted here, without Pass or Licence he shall be lyable to satisfy the Debts of the person so Transported, unless the same be otherwayes Satisfied or that such Merchant or Housholder do return again into this Goverment, and Appears to Answer in Court within the space of Six Months after such absence.

Horses and Mares.

Towns to have a branding Iron.

That every Town within this Goverment, shall have a marking Iron or flesh Brand for themselves in particular to distinguish the Horses of one Town from another, besides

Also, owners of horses.

which, every Owner is to have, and Mark his Horse or Horses with his owne Particular flesh Brand having some distinguishing mark, that one mans Horses may be known from anothers.

Register of brands, to be appointed.

His duties.

And that in every Town there be an Officer Appointed by the Constable and Overseers to record every Mans particular mark and to see each particular Mans Horse Mare and Colt Branded; and to take notice and Record the age of each of them as near as he can, with the Colour and all observable marks wheter naturall or Artificial and what Artificial marks it had before the Branding whether on the Eare or Else

where with the year and day of the Month when Branded And in Each Town the Officer for his Care and pains to have Six pence of the owner of Each Horse, Mare and Colt so Branded and Recorded, And that Every one who hath any Horse or Horses of what Age or kind soever, do duely observe this Order at his perill. Compensation.

And when any Horse Mare or Colt is to be Sould any other Town, the Purchasers shall Cause the Town mark of the place where he Inhabits, besides his owne particular mark to be sett on, or over the mark of the Town from which he bought them. Horses about to be sold, to be branded.

The Officer also is to require as Satisfying Evidence of his Right who presents any such Horse Mare or Colt as may be had; Or to Record any defect of due Evidence that a way may be open to other Claimes. Evidence of ownership, to be required.

No mares Shall be Transported out of this Government either to Barbados, Virginia or any other remote or forraine Plantations without Special Licence under the penalty of the forfeiture of the Maare, or Maares So Shippt for Transportation. Mares not to be transported to other countries, without license.

To Prevent the frequent abuse of Selling and killing other Mens Horses or Cattle, whereby the true owner Seldome or never know what is become of their Horses or Cattle No man of what quality soever he be shall Sell Truck or give away any Horse or Mare, Cow, Oxe, or Bull not markt as else where directed unto any other person whatsoever, under the penalty of five pounds to be paid by him that Sells, and also five pounds for him that Buyes; which Horse, Mare, Cow, Oxe, or Bull though markt, shall be Regestered in the Town where the property is Changed, within twenty four houres, with the name of the Persons and places of their Habitation, under the penalty of ten pounds to be paid by each party concerned therein as Buyer or Seller. Punishment for selling unmarked horses and cattle. When sold, to be registered in town where changed to.

Neither shall it be Lawful for any man to kill any Cow Ox or Bull, or Such like Cattle, either for Sale or for his private use, before he give Notice thereof, to the person appointed for that Town to Register such matter and a due entry be made thereof; with the Name of the Owner the mark of the Cattle, under the penalty of forfeiting the whole Cow Oxe or Bull, & so found the one half thereof to the informer, the Other half to the Constable and Overseers. Cattle not to be slaughtered, without notice to register.

Impresses.

That in all Publique workes for the safety and defence of of the Gouverment or the Nessessary conveniences of Bridges Highways and Comon passages, the Governour or deputy Governour and Councell shall send warrants to any Justices and the Justices to the Constable of the next Town or any other Towne within that Jurisdiction, to send so many Labourers and Artificers as the warrant shall direct, which the Constable and two others or more of the Overseers which the Constable shall choose shall forthwith Execute, and the Constable and Overseers shall have power, to give such wages as they shall Judge the work to deserve, provided that no Ordinary Labourer shall be compelled to work from home Compelling performance of public work.

above one week together No man shall be compelled to any publique work or service unless the Press be grounded upon some known Law of this Government, or an Act of the Governour and Councell Signifying the necessity thereof, In both which Cases a reasonable Allowance shall be made, Nor shall any man be Compelled in Person to any Office, work, warres or other publique service that is necessarily and Sufficiently exempted by want of years greatness of years defect of mind, failing of senses or Impotency of limbes, or by the Quality of the office which is else where exprest.

Compelling to go to war.

No man shall be compelled to go out of this Jurisdiction upon any Offencive warrs, but only upon such vindicative and defensive wars as in our own behalf or in the behalf of our Nation, against a Common Enemie shall be enterprized by the Governour with the Advice of the Council or by Authority Derived from the same Neither shall any mans Cattle

Taking property for public use.

or Goods of what kind soever; be pressed or taken for any such publique use or Service, Unless it be by warrant grounded as aforesaid nor without such reasonable satisfaction as the ordinary rates of the Country doth afford and in case either Cattle or goods shall perish or be damaged in such Service the owner shall be recompenced.

Inn keepers & Ordinaryes.

Keepers of inns and eating-houses, to have certificate of good behavior.

No Person or Persons shall at any time under any pretence or Colour whatsoever undertake to be a Common Victuler keeper of A Cookes shopp, or House of Common entertainment, or publique Seller of wine Beare, Ale or strong waters by retail or a less quantity than a quarter Caske, without a Certificate of his good behaviour from the Constable and two Overseers at least of the parish wherein he dwelt and a

And be licensed.

Lycence first obtained under the hand of two Justices of the peace in the Sessions upon pain of forfeiting five pounds for every such offence, or Imprisonment at the discretion of the Court.

To keep a sign.

Every Person so licenced for Common entertainment shall have some Ordinary signe obvious for direction of strangers, within three Months after the Licence granted under the penalty of twenty Shillings.

To be provided with wholesome beer.

Every Person Licenced to keep an Ordinary shall always be provided of strong and wholsome Beer, of four bushels of malt, at the least to a Hoggshead which he shall not Sell at above two pence the quart under the penalty of twenty Shillings, for the first Offence, forty shillings for the Second, and

Sale of same.

loss of his Licence, It is permitted to any to Sell Beer out of Doores at a peny the Ale quart or under.

Punishment for permitting excessive drinking, &c.

No Licenced Person shall suffer any to Drink excessively or at unseasonable hours after Nine of the Clock at night in or about any their houses upon penalty of two shillings six pence for every Offence if Complaint and proofe be made thereof.

For not notifying constable or overseers of quarrels.

If any quarrel or disorder doth arise from intemperate persons within their house, the Person so licenced for not immediately Signifying the same to the Constable, or one Overseer at the Least, who are Authorized to cause the peace

to be kept, shall for every such neglect forfeit Tenne Shillings and every person found Drunk in or about any of their houses shall forfeit two shillings Six pence, And for being the Author or accessary of the breach of the Peace and discorders or for Tipling at unseasonable hours shall forfeit ten Shillings and for want of payment or in case they be Servants and neglect their Masters occations They shall be sent to the Stocks one hour at the least, It shall be lawfull notwithstanding for all Licenced Persons to Entertain Land Travellers or Seafareing men in the night season when they Come on shore or from their Journey for theire necessary refreshment or towards theire preparation for theire Voyage or Journey, And also all Strangers, Lodgers or other Persons may freely Continue in such Houses, when theire Lawfull Occations and business doth require, Provided there be no disorder amongst them. Punishment for drunkenness on premises, breaches of peace, &c.

Every person so Licensed for the Entertainment of strangers with their Horses, shall provide one or more Enclosure for Summer Hay and Provender for winter with convenient stable roome And attendance; upon Penalty of two Shillings Sixpence for every days default, and double Damage to the party thereby wronged. To be provided with stabling.

No Licensed Person shall unreasonably exact upon his Guest for any sort of entertainment, and no man shall be compelled to pay above eight pence a Meale, with small Beer only unless the Guest shall make other agreement with the person so lycenced. Extortionate charges, prohibited. Price of meals.

No Licence shall be granted by any two Justices in Sessions for above the terme of one year, but every person so Licenced before the expiration of the said Terme shall and are hereby enjoyned to repair to the sessions of that Jurisdiction for renewing their Several Licences for which they shall pay to the Clark of the Sessions two Shillings Six pence, or else they shall forfeit five pounds as unlicenced persons. Term of licenses. Renewal of same.

All Offences committed against this law, shall be determined by the Constable with two or more of the Overseers, who are impowered to Collect and receive the Severall fines or distrayne in Case of non payment rendring accompt thereof as is else where required. How offenses to be determined.

Indians.

No Purchase of lands from Indians After the first day of March 1664 shall be Esteemed a good Title without leave first had and obtained from the Governour and after leave so obtained, The Purchasers shall bring the Sachem and right owner of such Lands before the Governoure to acknowledge satisfaction and payment for the said Lands whereupon they shall have a grant from the Governoure And the Purchase so made and prosecuted is to be entered upon record in the Office & from that time to be valid to all intents and purposes. Purchase of lands from Indians.

All Injuryes done to the Indians of what nature whatsoever; shall upon their Complaint and proofe thereof in any Court have speedy redress gratis, against any Christian in Redress of injuries.

as full and Ample manner, (with reasonable allowance for damage) as if the Case had been betwixt Christian and Christian.

Furnishing Indians with guns, &c., without license, prohibited.

No Person shall sell give or Barter directly or indirectly any Gun or Guns Powder, Bullet, shott, Lead nor any Vessel of Burthen, or Row Boate Canooes only excepted Without Licence first had and obtained under the Governours hand and Seal, to any Indian whatsoever, nor to any person Inhabitting out of this Government nor shall amend or repair any Gun belonging to any Indian, nor shall Sell any armour or weapons, upon penalty of ten pounds for every Gun, Armour, weapon, Vessell, or Boat, so Sould given or Bartered, five pounds for every pound of powder, and forty Shillings for every pound of Shott or Lead and proportionably for any greater or lesser quantity.

Also, trading for furs.

No Person Shall from and after the first day of September 1665 Directly or Indirectly Trade with the Indians for any sort of furrs without Licence first had from the Governoure which Licence is to be renewed every year at the Governours pleasure, remained if he shall find just Exception.

Furnishing liquor.

No Person whatsoever from henceforth shall Sell, Truck, Barter, give or deliver any Strong Liquores to any Indian directly or indirectly, whatsoever known by the name of Rum Strong waters, wine Brandy Spirrits or any other Strong Liquore under any other Name whatsoever; Under the Penalty of forty Shillings for one pint and So proportionably for greater or lesser quantities so Sould, Bartered, given or dilivered as aforesaid, One third part of this penalty to be to the informer, Provided always that it is and shall be Lawfull by way of reliefe and Charity to any Indian in Case of sudden extremity sickness faintness or weariness to sell or give to such Indian or Indians the quantity of two drames and no more of any such Strong Liquors as are aforementioned Provided also that the Governoure by Licence may Authorize any person or persons to sell any or all Such Strong Liquores to Indians upon Security taken from the person Licenced for his or theire good behaviour.

Cattle prohibited from destroying Indians' corn fields.

In all Places within this Goverment the English and all others shall keep their Cattle from destroying the Indians Corne in any ground where they have right to plant and if any of theire Corne be destroyed for want of fencing the Towne shall make Satisfaction, and shall have power amongst themselves to lay the Charge where the Occation of the Damage did arise.

Satisfaction for damages.

Provided that the Indians shall make proofe the Cattle of such a Town farme or Person did the Damage And for the Indians Encouragement towards the fencing in theire Corn fields, such Townes farmers or Persons where Cattle may annoy them that way shall Direct, Assist and help them in felling of trees riving and sharpening Rayles and holing of Poasts; allowing one English man to three or more Indians and shall also draw the fencing into place for them, and allow one man a day or two towards the setting up of the same, And either sell or lend them Tooles to finish it Provided that such Indians shall fence their Cornefields or

To be assisted in fencing their fields.

Ground att their own Charge, And if any Indians shall refuse to fence their Corne Grounds (being tendred help as aforesaid,) in the presents and hearing of Sufficient witnesses They shall keep of all Cattle or loose their Damage.

Satisfaction for injuries to cattle by Indians.

And if any harme be done at any time by the Indians unto the English in theire Cattle, The Gouernoure or Deputy Gouernour with two of the Councell, or any Court of Sessions or Assises may order Satisfaction according to Law and Justice.

Powwowing, prohibited.

No Indian whatsoever shall at any time be Suffered to Powaw or performe outward worship to the Devil in any Towne within this Goverment.

Jurores and Juryes.

Summoning of jurors.

That the Clark of the Sessions shall in Convenient time before the Sitting of the Court give a Certificate to the Sheriffe or under Sheriff of what and how many Causes are entered for their hearing the next Sessions to the end the Sheriff or under Sheriff may (and are hereby required) Immediately to Issue forth warrants to the Constable of the Severall Townes of the Jurisdiction of the Court for Jurymen proportionable to the Causes with regard to the equality of the number from each Town and according to the warrant The Constable shall warn sô many of the Overseers to attend as Jurymen and return their names to the under Sheriff, And if such Number of Jury men so required, prove not Sufficient for Carrying on the business with dispatch to the Sessions The Justices may require the Sheriffe or under Sheriffe, to Supply their number with so many able and discreet men as shall either attend the Court upon other occations, or shall happen to be Inhabitants of the Towne where the Court shall be held.

To be sworn.

All Juryes so Chosen shall be Empanelled and Sworn truly to try between party and party and shall find the matter of fact, with the Damages and Costs according to the Evidence; where upon the Justices in the absence of other Superior Officers, shall pronounce the sentance directing the Jury in point of Law, and if there bee matter of apparent equity upon the forfeiture of an Obligation, breach of Covenant without damage or the like, the Bench shall determine such matters of equity.

And directed in points of law.

Bench to determine matters of equity.

Compensation.

Every Juryman shall be allowed three Shillings Six pence per Diem for the Charges of their Attendance out of the fees and profits arising in each Court where they do Service, or by the Country if those fall Short.

Number.

No Jury shall exceed the number of Seaven nor be under Six unless in Special Causes upon Life and Death, The Justices shall thinke fitt to Appoint twelve.

Special verdicts.

In all Cases wherein the Law is obscure, so as the Jury cannot be Sattisfied therein. They have Liberty to present a special verdict (viz) If the Law be so in such a point, We find for the plaintiffe but if the Law be otherwise, We find for the Defendant, In which Case the determination doth properly belong to the Court, And all Juryes shall have liberty in matter of fact, if they cannot finde the maine Issue,

Liberty in matters of fact.

yet to find and present in their verdict so much as they Can.

May ask advice on obscure points.

Whensoever any Jury or Jurores are not Clear in their Judgements concerning any Case, they shall have liberty in open Court (but not otherwise) to advice with any particular man upon the Bench, or any other whom they shall think fitt to Resolve and direct them before they give in their Verdict.

Foreman to give in verdict.

The Verdict shall be given in, by the foreman of the Jury.

Verdict of majority, sufficient.

A Verdict shall be so esteemed, when the Major part of the Jury is agreed, and the Minor shall be concluded by the Major without allowance of any protest by any of them to the Contrary; Except in Case of Life and Death where the whole Jury is to be unanimos in their Virdict.

Exception.

To be charged by bench.

The Bench is briefly to sum up the Evidence by way of Information to the Jury.

Exemption on grounds of relationship.

To be Father, Brother, Uncle, Nephew or Cousen German to the party or Parties Concerned, shall be a Lawful Exemption against a Jurore before he be Sworn & not after.

Punishment for revealing dissenting votes.

Any one that shall presume to reveale the dissenting votes of a Jury or Arbutration, shall forfeit ten Shillings for the first offences and for farther breach of this Law The next Court of Sessions, or Assizes shall impose a greater fine on the Offender according to the Meritts of the Cause.

Justices of the Peace.

Justices of peace empowered to issue warrants.

The Justices of the Peace or Sheriffe or either of them shall have Power to Issue out writts or warrants according to the nature of the plaint.

Where to be of force, and how executed.

The warrants of any Justice of the Peace, shall be of force and is to be Executed by any inferiour Officer in any of the Ridings, as fully and Effectually, as if the Justice were an Inhabitant within that Riding, Provided always that the Plaintiffe, or Cause of Plaint do arise within the Riding where the Justice doth dwell The like Rule is to be observed in Hue and Cryes.

May pronounce sentences in absence of governor, &c.

The eldest Justice of Peace in the absence of the Governor Deputy Governoure or Some one of the Council shall pronounce the Decrees or Sentence of the Court, Except in Case of Natural Imperfections, or agreement amongst the Justices themselves, it be otherwise determined to any other Person of them, In neither of which Cases the Justice shall Refuse to do his Office, or Enter his desent to the prejudice of the Court.

Preside at town meetings.

Any Justice of the Peace, may if he please, or see cause for it Preside as Chiefe in any of the Towne Meetings within the Jurisdiction where he dwells.

Lands.

Lands to be free from fines, upon alienation.

All Lands and heritages within this Goverment shall be free from all fines and Licenses, upon Alienation and from all Heriotts, Wardships and Liveryes Primier Seizins year day and wast. Escheats, and forfeitures upon the Death of Parents or Auncestors Natural, unnatural, Casuall, or judiciall, and that for ever (Cases of high treason only Excepted.)

And from heriots, &c.

To the end all former Purchases may be asertained to the

present possessor or right owner They shall bring in their former Grants, and take out new pattents for the same from the present Governoure in the behalfe of his Royall Highness the Duke of Yorke. To be patented anew.

All Purchasores of implanted Lands shall of their Cost and Charge, Cause a Survey and Draught thereof to be made within one yeare after such Purchases and deliver the Same into the Office of Records, whereby the bounds and Limits thereof may bee justly distinguished, and if the purchasors shall not within three years after the Survey plant Seat or Inhabit upon the said purchasse they shall forfeit their Right, Title, and Interest therein. Surveys and drafts, to be made and recorded. Forfeiture of title for not seating lands.

Every Purchasor in acknowledgment of the propriety of such Lands belonging to his Royal Highness James Duke of Yorke, shall upon Sealing of the Pattent Pay unto the Governoure So much as they shall agree upon; Not exceeding for every hundred Acres. Payment for patents.

And upon the Seating of a Towne two Towne Lotts shall be reserved by the Purchaser to the use of the Gouernoure (Gratis) to dispose of to such as he shall thinke fitt. Reservation of town lots.

Lawes.

In regard it is almost impossible to provide Sufficient Lawes in all Cases, or proper Punishments for all Crimes the Court of Sessions shall not take further Cognizance of any Case or Crimes, whereof there is not provition made in some Lawes but to remit the Case or Crime, with the due Examination and proof to the Next Court of Assizes where matters of Equity shall be decided, or Punishment awarded according to the discretion of the Bench and not Contrary to the known Laws of England. Cognizance of cases whereof no provision is made in the laws.

Lying and False News.

Every Person of age of discretion which shall be reputed of fourteen years or upwards, who shall wittingly and willingly forge or Publish fals newes whareof no Certain Auther nor Authentique Letter out of any part of Europe can be produced, whereby the minds of People are frequently disquieted or exasperated in relation to publique Affairs, or particular Persons injuried in their good names and Credits by such Common deceites and abuses Upon due proofe made by Sufficient witnesses before the Governour or any Court of Sessions the Person so Offending in ordinary Cases shall for the first offence be fined ten shillings, for the second offence twenty shillings and for the third offence forty Shillings and if the party be unable to pay the same he shall be Sett in the Stocks so longe, or publiquely whipt with so many stripes as the Governor or any Court of Sessions shall think fitt not exceeding forty stripes; or four houres Sitting in the Stocks, and for the fourth offence he shall be bound to his good behaviour, paying Cost or Service to the Informer and witnesses, such as shall be judged reasonable sattisfaction, But in Cases of high nature and publique Concernes, the fine or punishment, shall be increast according to the discretion of the Governor and Council onely. Punishment for lying, and publishing false news.

Marriages.

Marriages.

Whereas by the Law of England no Marriage is Lawfully Consummated without a Minister whose office it is to join the parties in Matrimony after the Banes thrice published in the Church or a Lycence first had and obtained from some person thereunto Authorized, All which formality cannot be duly practiced in these parts.

Bans to be published in church.

Yet to the end that a decent rule therein may be preserved It is Ordained that from henceforth the names and surnames of each Party who sue for Marriage shall be Publiquely read in their Parish Church or place of usuall Meeting, where they both then Inhabit three severall Lords days successively.

How publication made where there is no church.

And where no Church or Meeting place shall happen to bee, a publication in writing shall be first fourteen Days before Marriage upon three doors of each parish whereof the partyes Inhabit (viz) one on the Constables the other two upon any two Doors of the Overseers of the Parrish Unless they produce a Lycence from the Governour in both which Cases, and not otherwise, it shall be Lawfull for any Minister or for any Justice of Peace to joyne the Parties in Marriage, Provided that the said Partyes do purge themselves by Oath before the Minister or Justice that they are not under the Bonds of Matrimony to any other Person Living, and if it shall be after proved, that either both of the Parties are perjured, and thereby attained a Double Marriage for the said perjury the party or parties offending shall bee boared through the tongue with a read hot Iron and moreover proceeded against as in Case of Adultery is provided; But if either Party be approved Innocent as to him or her Self and Ignorant of the others wicked fraud. the innocent Person shall recover damage against the nocent; and be sett at Liberty as if no such Marriage had been made.

License from governor.

Oath to be taken.

Perjury in such cases, how punished.

Punishment for harboring a married woman without her husband's consent.

No man shall harbour, conceal or detain Contrary to the concent of the Husband any Married woman, upon penalty of five Shillings for every hour that such Married woman remains under his Roof; after demand made by her Husband at the Dwelling house where his wife is so harboured concealed or detained.

Provided always that any woman flying from the barbarour Cruelty of Her Husband to the House of the Constable or one of the Overseers of the same Parish; may be protected by them in the manner as is Directed for Servants in such Cases, and not otherwise.

In what cases it shall not be Punishable to Re Marry.

May re-marry in case of false oath before minister.

If either the man or woman shall be Convicted to have falsified their Oath to the Justice of Peace or Minister the other is free to Marry.

Also, in case of death.

If Sufficient Certificates be brought from any forraigne parts agreeing with allowable Circumstances that the man or the woman are dead, the time, place, and manner specified under the hand and Seal of some Creditable person and known Magestrate the other is free.

If either the man or woman Travelling by sea or Land into any forraign Parts, which voyage by Common computa-

tion may be perfected in one years time or Less or in few days, of whom no Certain knowledge or news shall be had within five years after his or her departure nor of any that accompanyed him or her in the voyage it may be justly presumed such Person is Dead, and after the expiration of five Compleat years the other is free to Marry. And in case of absence for five years.

Provided always that if either the man or the woman shall at any time after the Expiration of five years Returne and bring full Testimony that hee or shee have divers wayes endeavoured by writings or Messages to make known to his wife, or her Husband, that Shee or hee were then living, or that they were by Imprisonment or Bond Slavery with the Turks or other Heathen, Lawfully hendred from giving such information It shall any may be lawfull for the said man or woman to Challenge his or her premarriage, and obtain an order for their Cohabiting as formerly, but if neither shall sue for such an order, They may by mutuall agreement Enter a Release to each other in the office of Records, and both remain free from their former obligations The father onely of the Children as are begotten in Lawfull Marriage is to provide for such Children as shall be adjudged in the Court of Assizes only.

If any man shall hereafter presume to Marry contrary to these Lawes prescribed the Person offending shall be proceeded against as for Adultery or fornication according to to Evidence the Children so begotten shall be Reputed Bastards, And the Parents Suffer such paines and penalties by fines or Punishment as they have deserved. Punishment for marrying contrary to law.

If any Justice of Peace or Minister shall presume to Marry any Daughter, Maid or Servant; without the known Consent of the Parents (if any be living) or the known Consent of the Master or Dame of the Servant, or any other Person who have not been thrice asked in the Church or usuall meeting place or otherwise Legally published, or without a special Licence for his so doing, under the hand and Seal of the Governour, The Justice or Minister shall forfeit twenty pounds, and be put out of his office. And without consent of parents and masters.

Masters. Servants. & Labourers.

No Servant either Male or Female, shall either give sell or Truck any Commodity whatsoever, dureing the time of theire Service, under the penalty of fine or Corporal punishment, by warrant under the hands of two Justices of the Peace as the Offence shall meritt, And whatsoever Person shall either Buy, receive or Truck with any such Servant Contrary to this Law they shall be compelled to restore the said Commodityes to the Master of such Servants or Servant, and forfeit the double value thereof to the poor of the Parish where they shall Inhabit. Sale of merchandise by servants, prohibited.

All Labourers and Servants shall work in their Callings being thereunto required, the whole day, the Master or Dame allowing them convenient time for food and rest. Performance of work by servants.

If any servant shall run away from their Master or Dame or any other Inhabitants shall privily convey them away or upon Suspicion of such their evil Intentions Every Justice Ruaway servants to be pursued, and brought back.

of the Peace or any Constable with two Overseers where no Justice is at hand Have power to press Men Horses, Boats, or Pinnaces, at the Publique Charge, to pursue such Persons, both by Sea and Land and to bring them back by force of Armes, to Clear themselves of such Crimes or Suspition thereof.

Payment for service.

No man shall refuse for Service or worke done, his Payment in Corne at the usual Rate, Provided that the Corne be Merchantable, Provided also that no Speciall agreement was before hand made for any perticuler payment if so then to be paid in the same Specie agreed upon or Consideration for default thereof by Arbutration.

Abuse and cruel treatment of servants.

If any Masters or Dames shall Tyrannically and Cruelly abuse their Servants, upon Complaint made by the Servant to the Constable and Overseers, they shall take speedy redress therein, by Admonishing the Master or Dame not to provoke their Servants, And upon the Servants Second Complaint, of the like usage It shall be Lawful for the Constable and Overseers to protect and Sustaine such Servants in their Houses till due Order be taken for their Reliefe in the ensuing Sessions Provided that due Notice thereof be Speedily given to Such Masters or Dames, and the Cause why such Servants are Protected and Sustained, and in Case any Master or Dame by such Tyranny and Cruelty, and not Casually, shall smite out the Eye or Tooth of any such man or maid Servant, or shall otherwise Maime or disfigure them such Servants after due proof made shall be sett free from their Service, And have a further allowance and recompence as the Court of Sessions shall judge meet.

Causeless complaints.

But in Case any Servant or Servants shall causelessly Complain against their Master or Dame If they cannot make proofe of a just occation for such Complaints such Servants shall by the Justices of the Court of Sessions be enjoyned to serve three Months time extraordinary (Gratis) for every such vndue Complaint.

Assignments to other masters.

No Servant, except such are duly so for life, shall be Assigned over to other Masters or Dames by themselves their Executors or Administrators for above the Space of one year, unless for good reasons offered; the Court of Sessions shall otherwise think fitt to order, In such Case the Assignment shall stand good Otherwise to be void in Law.

Seven years' faithful service, to be rewarded.

All Servants who have served Diligently; and faithfully to the benifit of their Masters or Dames five or Seaven yeares, shall not be Sent empty away, and if any have proved unfaithful or negligent in their Service, notwithstanding the good usage of their Masters, They shall not be dismist, till they have made satisfaction according to the Judgment of the Constable and Overseers of the parish where they dwell.

Negligent servants to make satisfaction.

Military affaires.

Laws relating to militia, to be observed.

For as much as the good Management of the Militia is the Support of all Goverments in Peace and Safety, to which all Persons of what quality soever are obliged in duty & Conscience in their proportions to be Aiding and Assisting to this good end these following Lawes are to be observed.

1 First, that every Male Person above the age of sixteen years Except, Justices, Sherriffes, high Constables and under Sherriffe Petty Constable Ministers and professed School-masters, Physicians and Chirurgeons, allowed of by two Justices, Clarkes of Assizes or Sessions Publique Notaries, Masters of Shipps or vessels above Twenty Tunns Constant heardsmen or such as for bodily Infirmity or old age shall be be excused by the Justices in any Sessions, as also one servant of each Justice or high Sheriff shall duely attend all Military Exercises and Service as Trayning watching and warding, when they are thereunto required and warned by their Officers under the penalty of five shillings for every Dayes default. Male citizens above age of sixteen, to attend military exercises.

2 Every Town shall be provided of a Sufficient ware house and a Safe convenient place thereunto Adjoyning for keeping Powder and Ammunition; under the penalty of ten Pounds and the Constable and Overseers shall provide and maintain for a General Stock to the use of the Town in Case of necessity, one Barrell of good Pouder, English weight one hundred and fifty Pounds of Muskett or Pistell Bullets Thirty Pounds of good Match; which they shall carefully renew from yeare to yeare, or time to time as shall be needful under the Penalty of five pounds, for The want of such proportions of Bullets, Pouder, or Match as beforementioned; And where there are Artillery forts or Batteryes in any Town, The Constable and Overseers shall Mount such Guns, and fitt them with Appurtenances for Service, and the Constable and Overseers are hereby Authorized to Assess Levy or destrain upon the Inhabitants for building providing doing and maintaining the particulars before recited. Towns to be provided with powder magazines. And ammunition. Forts to be maintained.

3 Besides the Generall stock of each Town Every Male within this Goverment from Sixteen to Sixty years of age, or not freed by public Allowance, shall if freeholders at their own, if sons or Servants at their Parents and Masters Charge and Cost, be furnished from time to time and so Continue well furnished with Armes and other Suitable provition hereafter mentioned: under the penalty of five Shillings for the least default therein Namely a good Serviceable Gun, allowed Sufficient by his Military Officer to be kept in Constant fitness for present Service, with a good sword bandeleers or horne a worme a Scowerer a priming wire Shott Badge and Charger one pound of good powder, four pounds of Pistol bullets or twenty four bullets fitted to the gunne, four fathom of Serviceable Match for match lock gunn four good flints fitted for a fire lock gunn, And all Captains or Military, Officers are hereby required to give in or send an Accompt yearly, to the Governour and Councell how the Inhabitants are firnished and provided, That due Supply may be Ordered. Male inhabitants, to be furnished with arms and accoutrements. Account to be furnished governor and council.

4. That the Constable and Overseers shall in behalf of their Town present to the Governour three names of the most fitt persons in their Towne to be Captaine Lieutenant and Ensigne to whome the Governour shall Issue forth Commissions accordingly, unlesse hee have Sufficient Exceptions against either of them In which case the Constable and Over- Captains, lieutenants, and ensigns, to be commissioned.

seers, shall proceed to a new Election, which is to bee by the plurality of voyces of the Soldiers.

Penalty for refusing to accept military office.

5 No man Elected into any Military Office, shall refuse to accept thereof, or discharge his trust therein under the penalty of five pounds whereof one half to be paid to the Governour and the other halfe to him that is chosen in his place, and accepts thereof.

Inspections.

6 The Captaine or Chiefe Military Officer in each Towne is impoured once in three Months at least every yeare or oftner if they see good, to take a Strickt view, how every man is furnished with Armes and Ammunition according to Law and where any are found faulty They are required to to make presentments thereof to the Constable and Overseers of the said Towne, That the fines and penalties may by them from tyme to tyme be duely Levied, and if this view of Armes and Ammunition, shall at any time be neglected or the defects not duly presented, The Captaine or Chiefe Military Officer shall pay forty Shillings for his Neglect, which fine shall be Levied by the Constable and applyed to the maintenance of the Publique Stock of the Towne.

How fines to be imposed.

7 All fines for the Neglect of Townes or Captains and Chief Oficers in Military affairs, shall be imposed by the Court of Sessions only and not otherwise, but for the neglect of particular persons by the Constable & Overseers.

Training days.

8 Every Town within this Goverment shall have every year four Days of Trayning amongst themselves and their shall be also in each Ryding once in the yeare a General Trayning of all the Townes within that Jurisdiction which may take up three dayes time, the one in Coming to the place appointed, the next for the Trayning, and the third for every one to Returne to theire Habitations.

General trainings.

8 There shall be likewise once in two years a General Trayning for all Souldiers within this Goverment The time and place to be at the Nomination of the Governor.

Instructions on training days.

In the Severall Traynings All Males above sixteen Years of age who are not freed from that Service, are to be taught and Instructed in the Comely handling and ready use of their Armes, in all postures of Warre to understand and attend all words of Command, And further To fitt all Such as are or shall be in Some measure instructed for all Military Service, against therebe occation under the penalty of forty Shillings to be Leveyed upon the Military Officers, as upon Examination they shall be found more or less faulty and with respect to their place the greater trust paying the Greatest fine for neglect And the dayes to be appointed for private and Generall Traynings shall be at the most Convenient times of the Year for Traynings, but not within fourteen dayes one of another, Moreover every such Trayning Day the Major Generall or Chief Military Officer present shall cause the names of all the Souldiers to be read in the forenoone and in the afternoone also if hee see Cause And whosoever in any Trayning day shall be totally absent, shall pay five Shillings for every such default, whoever shall at any time of the day withdraw himself from the Service without leave from the Chiefe Military Officer present hee shall pay either

Appointment of such days.

Roll-call.

Punishment for absence, tardiness, &c.

as for total absence, or a greater or less fine as the Offence considered in all Circumstances may require And whosoever shall come late, shall pay for each such default one Shilling & for any other disorderly offencive Carriage according to the Nature and measure of it Nor shall any Town suffer their Jnhabitants to Neglect or grow Slight in a Service of such importance And what fines shall be levyed by virtue of any neglect or Misdemeanor at the General Trayning of such Jurisdiction The Major General shall have the one third and the other Officers two thirds.

Disposition of fines.

9 All fines arising upon this accompt, and not expressed here, they shall be disposed of are to be Employed in the Buying Drumes, Colours, Halberds and other necessary Charges relating to the Militia.

Rendezvousing of militia.

10 The Governor and Councell shall send warrants to the Major General, the Major General to the Captaines and Chief Officers, to draw their Severall Companies to a Certain place mentioned in the said warrants, allowing fourteen Dayes warnings in time of peace, But if at any time there shall happen within this Government any Forraigne Invation or any Publique attempt or annoyance from a Common Enemy, whether Christian or Pagan or other Insurrection or Rebellion against the Lawfull Authority In such Case the Governor by warrant to the Major Generall the Major Generall to the Sheriffe, the Sheriff to all Officers both Civill and Military shall Immediately dispatch Order Warrants or presepts to all other Persons whatsoever, that upon their utmost perills of fine and Imprisonment, by the Governor & Council they nor any of them do fail to meet upon a Certaine day and place in the warrant to be expressed with their Armes and other Military provitions, where the Sheriffe in person is also to appear and attend there to receive further Order from the Governor and Council.

Orders of superiors, to be obeyed.

19* All inferiour Military Officers shall punctually obey the Orders of their Superiors in their Marches Quarters, and watches without murmuring and repining under the penalty of being fined at the Discretion of the Major General and Captains, from whose Sentence no appeal shall bee made to any Inferiour Court, nor abatemented granted, except by the Governor & Council.

Punishments for contempt.

12 The three Chiefe Officers of each Company have power to punish any Souldier or Souldiers that shall commit disorder or Contempt upon any day or time of Military Exercise within their Towne or upon any watch or ward, by Stocks Riding wooden Horse or other Military punishments or by fine not exceeding ten Shillings or may Commit such offenders to the Constable, to bee carried before some Justice of the peace who may bind him over to the next Court of Sessions, or Commit him to prison if the Cause so require.

Hearing and adjudging of contempts.

13 Offences of Contempt or disorder at any General Trayning shall bee heard and Adjudged by the Major General and the Captaines onely, who have power to double the fine or Treble the punishment upon the Offenders, though not to al-

*Match Looks accepted against, omited which was the 11.

ter the manner which is directed to the Chiefe Military Officers in Towne Traynings.

Furnishing arms and ammunition to persons unable to procure same.

14 If any Person cannot procure Armes or Ammunition with such pay or meanes as hee hath, If hee bring to the Captaine so much Corne as by the apprizement of the said Captain and two other Indifferent men whereof one to bee Chosen by the party, shall bee adjudged of greater value by a fifth part, then such Armes and Ammunition is of hee shall bee excused of the penalty for want of Armes untill hee bee provided, and the Captaine shall Endeavoure to furnish him so soone as may bee by Sale of such goods so deposited, rendring the Overplus to the party, But if any person shall not bee able to provide himself Armes and Ammunition though meere poverty, if hee be Single he shall bee put to Service by the Constable and Overseers of the place where he dwelleth, or they shall provide him Armes and Ammunition and shall appoint him when and with whom to worke it out.

Workmen to repair arms.

15 Vpon any Expedition upon occation of and Enemy or any present Military Service to be done, All Smiths and other needful workmen shall immediately repaire such Armes and other Necessaries as shall be brought to them for that end, for which they shall not refuse such pay as the Country affords, upon the penalty of five pounds for every Such default, and for any Such neglect at any time, other time more then ten dayes, shall forfeit for every such Offence ten Shillings.

Penalties for neglect.

Bearing arms beyond government limits, not to be compelled.

16 No man shall be Compeld to bear Armes or wage war by sea or Land, without the bounds and limits of this Goverment, But from Defensive warrs noe man shall be exempted.

Wars upon Indians, how to be maintained.

17 All defensive or vindictive Warrs upon Indyans shall be maintained by a Generall Assesment proportioned on each Towne according to the pay and Custome of England to Soldiers and half pay to Officers.

Raising armies to assist neighboring colonies.

18 In respect of the mutuall, and Brotherly Assistance which wee ought at all times to Cherish and improve, for the helpe and Support of our English Neighbours in other his Majestyes Colonyes The Governour and Counsel may at all tymes and in all places, by beat of Drum or otherwise, Call together list, raise Armes and send forth out of this Government all such, or so many men as shall voluntaryly present themselves to the Service whether Servants or freemen, with this distinction onely, that if any Servant making use of that pretext, to Escape from his Master, shall flee and absent himselfe from his Colours, and not returne, if Living with his Officers; such Servant so Offending, shall be Lyable To bee punished by Death, according to the dissipline of warre and the master of such Servants shall have reasonable satisfaction allowed him by the Governour for such Damage And to all Voluntary Souldiers so Levied, shall be Allowed one Moneths pay and made good by a General Assessment proportioned to each Towne, all further charges are to bee defrayed by the Colony to whose Assistance they are Employed, And all Justices of Peace Sheriffs high Constables and other Officers are impowered and required to Suppress and hinder all Levyes of Soulders by beat of Drume or other-

wise to be composed, But such as shall be Authorized by his Majesties immediate warrants, or the Governor and Council here Established.

20 All souldiers shall bee respective to their Officers and Obedient to their Command in their Marchings Quarterings and watchings as well as Traynings, whilest they are requíred to attend the Service, under the penalty (for their Disobediance in ordinary occations) of five shillings but in Case of such Disobediance happens before the face of an Enemy; or when it is reasonably expected that an Enemy is at hand, to make an assault in such Cases the Officer or Officers shall commit such person or persons into Custody and at Convenient time either to Sentence the Offender to some grievous punishment by a Court Marshall, or remitt the Tryal thereof to the Court of Assizes who are impowered to hear, Examine and Determine the Cause and what fine or penalty that Court shall thinke to impose upon the offender. Soldiers to obey their officers. Punishment for disobedience.

21 If any man appointed to stand Centinel, shall bee found sleeping during that duty, whereby the lives of others are in Danger, hee shall pay forty Shillings or suffer other Military Punishment, but if hee shall come off from being Centinel without being relieved hee shall forfeit five pounds. Punishment of sentinels for sleeping at their posts.

22 Every man that absents himselfe from the watch without leave from his Officers, shall pay five Shillings, and with leave shall hire another; in his place, But if any man shall depart from the watch without leave of his Officers he shall forfeit ten Shillings or more, with other paines and penalties, according to the measure of the Danger that may ensue thereupon. Absence without leave.

23 That no Troope of Horse shall exceed the Number of fifty Troopers besides officers (viz) A Captaine, a Lieutenant, A Cornet, a Quarter Master, three Corporals, which Officers and the private Troopers are to observe the same times for Muster and Exercise in Military discipline with all other Circumstances enjoyned upon the foot Officers and Souldiers respectively, Mutatis Mutandis as followeth. Cavalry companies, of what to consist. Observance of times to muster, &c.

24 Every Trooper listed in any Troope of Horse shall keepe and maintaine a good Horse Fitted with Sadle, bridle, Holsters, Pistolls, or Carbine, and a good Sword under the penalty of ten Shillings for the least default. Outfit of a trooper.

Neither is it lawful for any Trooper to sell or Change his Horse without his Captaine's concent under y^e^ penalty of five pounds. Penalty for selling horse without leave.

And for non appearance upon dayes of Muster and Exercise ten Shillings a day. For non-appearance on muster days.

Neither is it Lawfull for any listed Trooper to disband himself, but with leave from his Captaine under the penalty of fifty Shillings. For departing without permission.

All Officers both of Horse and foote shall from time to time Obey their Superiour Officers in all things Relating to the Military affaires of this Goverment. Officers to obey their superiors.

All other Penalties for defaults in other Officers or Souldiers of a Troope of Horse, shall bee the same and Levied in the same manner, and applyed to such uses as are else Other penalties, how to be levied and applied.

where directed and Ordained in Relation to the foote Officers and Souldiers.

Officers and Offices.

Terms of sheriffs and constables.

All Sheriffs under Sheriffs or High Constables and Constables shall be Changed every yeare, only the under Sheriffes or high Constables, by Speciall warrant may continue in their Office.

And of justices of the peace.

Justices of the Peace are to continue in their Places dureing the Governours pleasure.

Clerks of courts, criers and marshalls.

Clarks of Courts Cryers, and Marshalls, are to continue in their places dureing their good behaviour for breach of which they are punishable by the Loss of their places, and fine at the Discretion of the Court.

Removal from office, and supplying of vacancies.

That the Governour and Council may by Special warrant displace any Officer made or Chosen within this Goverment for Neglecting of his Office or other Notorious misdemeanor; and misbehaviour, In which Case the Counstable and Overseers of any Towne shall proceed to a new Election, to Supply the vacancy as if the said Officer were Dead, According to the Rules prescribed for Election of Town Officers.

Overseers.

Overseers, number, qualifications, election and terms of.

Overseers shall be eight in Number, men of good fame and life, Chosen by the plurality of voyces of the freeholders in each Town, whereof foure shall remain in their Office two years Successively, and four shall be Changed for New ones every yeare, which Election shall preceed the Elections of Constables, in point of time, In regard the Constable for the yeare ensuing, is to be chosen out that Number which are dismist from their Office of Overseers.

To be confirmed.

The New Chosen Overseers are to bee presented by the old Constable, and Overseers, to bee Confirmed by the Justices of the Peace at the next Sessions ensuing by taking the Oath appointed for Overseers.

To discharge duties of constables in emergencies.

Any one Overseers upon any sudden and necessary occation (the Constable being not at hand, or not in health to performe his Office) May take upon him the Authority of a Constable, Provided that he carry with him the staffe of the Office, which shall be a Sufficient warrant to any such Overseers to Act by virtue thereof, and in his Majesties name as any Constable might or ought to do.

Orphants.

Estates of orphans, provisions relative to.

That all Persons who now have or shall have any Estate of Goods Chattle or Lands; in their possession, belonging to any that are under age shall exhibite an Inventory and Accompts of that said Estate within three Moneths next after Publication of this Law, to the respective Courts of Sessions where such Estate shall be and afterwards yearly; And in Case such Person or Persons who have such Estate, in their hands, do not at the time and place aforesaid present the Inventory and Accompts of such Estates as aforesaid; Then that the whole businesse be sent to the next Court of Assises where the Offender shall be fined for Neglect of

Exhibiting as aforesaid; and if any good Improvement hath not been made of the Estate; yet if it shall be thought Convenient to Continue it in the said Persons hands hee or they shall give better Caution and Security or else it shall bee removed into the hands of some other able & discreet Person or Persons as the Court shall appoint upon the Cautions aforesaid.

Payments.

Payments upon contracts.

All Payments upon Contracts & Engagements shall bee Satisfied in kind according to Covenant, Provided that in such Cases where payment in kind according to Covenant is by Some inevitable accident hindred which could not be foreseen.

Satisfaction of damages.

All just Damages may bee Satisfied, together with the Debt by Arbitration, but in no Case shall any Creditor be forced to relinquish his just pretence to bee Satisfied in kind according to his Covenant.

Pipe Staves.

Viewers of pipe staves, to be chosen.

That the Constable and Overseers in all Townes within this Government where pipe Staves shall bee shipt, do from time to time as need shall require; Nominate two men of each Town, Skilfull in the Commodity, And such as can attend the service, to be viewers of Pipe Staves, who so chosen shall be by the Constable convented before some Justice of the Peace to be Sworn, diligently and faithfully to view & search all such Pipe Staves as are to be transported and to be used for making of right Caske who shall cast by all such as they shall judge not Merchantable, both in respect of worme holes, and due Assize (viz) That are not in length four foot and a halfe in breadth three Inches and a half without sap, in thickness three quarters of an Inch, and not more or less than an eighth part of an Inch, then three quarters of an Inch, well and even hewed and Sufficient for use, And they or Some of them shall at all times upon request give attendance, and they shall enter into a Booke the Number of all such Merchantable Pipe Staves as they shall approve, and for whowe, And if any man shall put abord any ship or any other vessel, any Pipe Staves other then shall be so Searched and proved, to the end to be transported to any other place, Except they should be shipt for dry Caske, he shall forfeit the same whole percell or the value thereof And the viewers shall be allowed two Shillings for every thousand of pipe Staves which they shall so Search; as well the refues, as the Merchantable to bee paid by him that set them to work; And if any master or other Officer of any Ship or other vessel shall Receive into such ship or Vessell any percell of pipe Staves to be Transported as aforesaid, which shall not be Searched and allowed as Merchantable and so Certified by a noate under the hand of one of the said Viewers, Such Master shall forfeit for every thousand of Pipe Staves so unduely received five pounds, Except he can procure one of the said viewers to come on Board And Search such Staves, as they say bee delivered into The shipp Pro-

Their duties.

Merchantable staves.

Forfeiture of staves not examined by viewers.

Compensation of viewers.

Punishment of masters of vessels for receiving staves not examined.

To be sworn.

vided Cast or refuse Staves, or other Red Oake Staves may be transported into those parts which may be of good use for Dry Caske, so as the same bee Carryed in distinct percells and not intermixt with Merchantable Staves.

Possession.

Title secured to lands by possession.

Every Person or Persons that hath either himself, or by his Grantee or Assignee possest or Occupied any Lands or Houses as his or their owne proper right in fee Simple within this Goverment and shall so continue; whether in their owne Persons, their heirs or Assigns, or by any other Person or Persons, from, by, or under them in possession as aforesaid, without disturbance Let Suite or deniall Legally made to such Lands, or Houses for the tearme of foure yeares last past, and shall so remaine without any Claime legally Entred against the possessour before the first day of September, which shall be in the year of our Lord 1665, Shall from and after the first day of September and for ever enjoy the same without any Lett, Suit disturbance or denyal, any Claim or pretence of any Person or persons to the Contrary notwithstanding Provided That it shall be Lawfull for any Person that shall find himself aggrieved herein to make his Appeale to his Majesty.

Publique Affaires.

Letters to and from governor, to be forwarded by constables.

Whereas this Goverment may in many Occations be disappointed of speedy and true Information of Publique Affairs out of England, as well as out of our Neighbours Colonyes To the remedy of such future inconveniences, Every Constable to whom any letters shall come Directed to the Governour Attested on the Backe side the letter with the Name of one of his Majesties principall Secretaryes of State, or with the name of any one of the Governours of any of his Majesties Coloneyes of New England; or any Letters Sent from the Governour to the Sheriff or any of the Justices of York shire upon Long IsLand and so Attested as abovesaid, shall be dispatcht by every such Constable within three hours at the furthest, after the receipt thereof to the next Constable and so forwards as the letter directs Upon the penalty of forty Shillings for every hours delay And in such cases all Constables are Impowered to Press a Sufficient horse and Man to that purpose Allowing for the Man and Horse Satisfaction Six pence for each Miles travel, which shall be discounted to each Constable in the Publique Rates.

Packers Caske and Coopes Gager.

Casks, size of, and of what to be made.

Gaugers to be appointed.

Coopers to mark their casks.

That all Caske used for any Liquors fish, Beefe, Porke or other Commodities to be put to Sale shall be of London Assize and of Sound and well Seasoned Timber and that fitt Persons shall from time to time be appointed in all places needfull to Gage all such Vessels or Caske and such as shall be found of due Assize, shall be Marked with the Gagers marke; who shall have foure pence per tunne; And every Cooper shall have a distinct brand Marke on his owne Caske; upon the penalty of forfeiture of Twenty Shillings, And

whosoever shall put to sale any new Caske being defective either in workmanship, Timber or Assize as aforesaid; upon due proofe made thereof before any of the Country shall forfeit ten Shillings per Tunne and so proportionably for greator and lesser Caske; And because there may be no Neglect in choyce of a Gager or Packer That Every Towne within this Jurisdiction; wherein any Caske are made, shall yearely make Choice of a fitt man for that Imployment, who being prefered by the Constable within one Moneth after the Choice made; before the next Justice of the peace, shall there take his oath belonging to his place, which if hee shall refuse hee shall pay the summe of forty Shillings and another shall be Chosen in his Roome, Also the Towne or Constable shall either of them suffer the Like penalty, for their Neglect of this order, And every Gager or Packer shall see that all Cask he Packs, Beefe, Porke, Mackerell, fish or other Goods, Committed to his Care, bee of true and full Assizes and that hee packe the same in no other Caske whatsoever, on the penalty of ten Shillings for every Caske by him Packed, that is or shall be defective in that respect, one halfe to the Informer, and the other halfe to the Governour.

Punishment for selling defective casks.

Gaugers to be chosen yearly.

To be sworn.

Their duties.

That in every Towne where any such Goods are Packed up for Sale, the Gager or Packer of that Towne, or if the Towne where in it is put to Sale or Shipped shall see that it be well and orderly performed (viz) Beefe, and Porke the whole halfe or Quarter and so proportionably, that the best be not left out, and for fish that they be packed all of one kind, and all Caske soe packed be full Sound and well Seasoned, Setting his Seal on all Caske so packed, and hee shall receive of the owner for so packing and Sealing four Shillings per Tunne, But if the Gager do but only view them, and find them good and Sufficient, he shall sett his Seal on them, and have one Shilling per Tunne, for so doing, and if such Goods so packed shall be put to sale without the Gagers Marke, hee shall forfeit the said goods that so put them to Sale, the one halfe to the Informer the other halfe to the Governour.

Compensation.

Forfeiture of unmarked goods.

Pounds Prisons & Stocks.

Every Towne shall at their charge provide a paire of Stockes for offenders, and a pound for the impounding of Cattle; and Prisons and Pilloryes are likewise to be provided in these Towns where the Severall Courts of Sessions are to be holden.

Towns to be provided with stocks, pounds and prisons.

Public Charges.

That every Inhabitant within this Government shall Contribute to all Charges, both in Church and Coloney; whereof he doth or may receive benefit, and every such Inhabitant that doth not voluntarily Contribute proportionably to his Ability, with the rest of the same Towne to all Common Charges both Civill and Ecclesiasticall, shall be compelled thereunto by Assessment and Distress to be Levied by the Constable as in other cases, and that the Lands and Estates of all Men wherever they Dwell shall be Rated for all Towne Charges, both Civill and Ecclesiasticall (as aforesaid) where

Inhabitants to contribute to civil and ecclesiastical charges.

Lands and estates to be rated.

the Lands and Estates, shall Lye, and theire Person where they Dwell.

Sheriff to direct warrants to constables.

That the high Sheriff, for the time being shall from yeare to yeare after the first day of June 1665 send forth his warrants to the Constable of every Towne; within this Jurisdiction, requiring the Constable to call together the Overseers of the Towne, who shall within four Months after the said first day of June, make a List of all the Male Persons in the same Town, from Sixteen years old and upwards, and a true Estimation of all personall and Reall Estates, being, or reputed to bee, the estates of all and Every Persons in the same Towne or otherwise under their Custody or Management according to Just valuation, and to what Persons the same belong whether in their owne Towne, or other where, so near as they Can by all Lawfull meanes or wages, which they may use (viz) of warre Houses, Lands of all sorts as well unbrokenup as others Except such as Doth or shall Lye Common for free feed of Cattle to the use of the Inhabitants in Generall whether belonging to Townes in General or perticuler Persons, but not to be kept or hearded upon to the Damage of the Proprietors, Mills, Shipps, and all small vessels, Merchantable Goods, Cranes, wharfs and all sorts of Cattle, and all other known Estate whatsoever, as also all visible Estate either at Sea, or on Shoar, all which Persons and Estates are by the said Constable and Overseers to be Assessed and Rated as here followeth (viz) Every Person aforesaid, Except such as by Law are Excepted eighteen pounds, and for a more Certaine Rule in rating of Cattle, Every Cow of four years old and upward shall be vallewed at five pounds, Every Heyfer and Steere between three and four years old, at four pounds and between two and three, at fifty Shillings, and between one and two years old thirty Shillings, Every Oxe and Bull of four years old at six pounds, Every Horse and Mare of four years old and upward at twelve pounds, of three years old Eight pounds, between two and three years old five pounds of one year old three pounds, Every Sheep of one year old Six Shillings eight pence Every Goat above one year old Eight Shillings, Every Swine above one year old twenty Shillings; And all Cattle of all sorts under a year old are hereby Exempted as also all Hay and Corne in the Husbandmans hands, because all Meadow, Arable Ground, and Cattle are Rateable as aforesaid, That such persons as are disinabled by Sickness Lameness or other infirmities, shall be exempted and for such Children, and Servants as take not wages, their Parents and Masters shall pay for them but such as take wages shall pay for themselves.

Overseers to make lists of persons, and estimates of property.

Subjects of assessment.

How to be rated.

Exceptions.

That the Constable of each Towne do bring into the high Sheriffe fairly writen the just Numbers of all Males Listed as aforesaid, the Assessments of Estates, made in their Severall Townes, according to the Rules and directions expresed and that the said high Sheriffe shall duly and carefully Examine all the said Lists and Assessments of the Severall Townes and shall Correct and perfect the same according to the true intent hereof, and the same so perfected to Trans-

Lists to be examined and corrected by sheriff.

And transmitted to governor.

mitt under his hand, before the Expiration of his Office, to the Governour.

Payment of rates.

That every one shall pay their Rate to the Constable of the Towne where he shall be Assessed, nor shall any land or estate be Rated in any other Towne, but where the same shall lye, is or was improved to the owners; reputed owners or other propriators, use or behoof, if it be within this Goverment, and for all peculiers (viz) such Places as are not yet layd within the Bounds of any Towne, The said person with the Lands with the Persons and Estates thereupon shall bee Assessed by the Rates of the Towne next unto it; the measure or Estimation shall be By the Distance of the Meeting House.

Lands not to be assessed in other towns.

Assessment of lands not within town bounds.

Punishment for neglect of duties by constables, overseers and sheriff.

And if any of the Constables and Overseers or high Sheriffe shall willingly Neglect or faile to performe the Trust Commited to them in not making Correcting perfecting or Transmiting the said Lists or Assesments according to the true Intent of this Law Every Such Offender shall be fined forty Shillings for every such Offence or so much as the Country shall be damnified thereby, so as it Exceed not forty Shillings for one offence Provided that such Offence be Complained of and prosecuted in due Course of Law, within Six Moncths That upon all distress to be taken for any of the Rates or Assessments aforesaid the Constable shall distraine Goods or Cattles if they may be had and if no Goods, then Lands or Houses If neither Goods nor Lands can be had within the Towne where such distress are to be taken, Then upon such returnes to the High Sheriffe he shall give warrant to Attach the Body of such person to be carried to prison there to be kept till the next Court of Sessions Except they put in Security for their Appearance there or that payment be made in the mean time.

Distress for non-payment of rates.

Warrant to attach the body.

How town rates to be made.

That the Prices of all sorts of Corne to be Received upon any Rates shall be such as is already appointed and that all Towne Rates shall be made after the same manner and by the same rule as the Country rate, That if any Constable shall not have gathered his Rates or Levies Commited to his charge by the high Sheriffe then being, dureing the time of his Office, That he shall notwithstanding the expiration of his Office have power to Levy by distress all such Rates and Levies, And if he bring them not into the former high Sheriffe according to his warrant The said High Sheriffe shall distraine the said Constables Goods for the same, And if the high Sherriffe shall not so distraine the Constable hee shall be Answerable for the same.

Constables empowered to collect after expiration of terms.

They and sheriff answerable for rates.

Towns liable for arrearages.

And if the Constable be not able to make payment it shall be lawfull for the high Sherriffe old or New respectively to distraine any man or men of that towne where the Constable were unable, for all Arrearages of Levies and that man or men upon Petition to the Court of Assizes, shall have Order to Collect the same againe equally of the Towne, with just damage for the same.

Rates to be brought in on day appointed.

That the Constable shall appoint a day and place and give reasonable warning to the Inhabitants to bring in their proportions upon which every man so warned, shall duely attend

Neglect to do so.

to bring in his Rate, or upon neglect thereof shall forfeit two pence in the Shilling for what he falls short, and the said Constable shall have Authority hereby to distress the delinquents, or be accomptable themselves for the Rates and penalties so neglected by them.

That all the plantations within this Goverment after the publication hereof, shall be fully Comprehended in this Law.

Records.

Conveyances to be transmitted for record.

All Records of Bargaines and Sale, or any other Conveyances Administrations or Probates of will within the North and West Riding, shall be Transmited to the Office at New Yorke, with the fees Ordained for the Records, within one Month after the Record shall be made in the Courts, If in the East Riding within two Moneths.

Saylers.

Arrest of sailors for dobt by innkeepers.

To prevent many miscarriages which are frequently commited by Saylers, by their immoderate Drinking and other vaine expences in Ordinaryes, whereby the Master and Owners of the vessels to which they belong may be prejudised, by Arresting and detaining such Saylors for Debts when their Shipp are ready to sett Sayle, No Victuallers, Innkeepers, or other Sellers of Wine Beare or other Strong Liquors shall after the first day of March 1664, Arrest, Attach or recover by Law any Debt or Debts to bee made by any Sayler or Saylers in Pay and whose dwellings are not within this Jurisdiction Except the Master or Owner of such Shipp or Vessell to whom such Saylers belong, have given under his hand to Discharge the same.

Sherriffe.

Power of sheriff to issue writs.

The high Sherriffe shall have power to issue forth any writte or warrant according to the Nature of the plaint:

May preside at town meetings.

That the High Sherriffe may if he please or see cause for it preside as Chieffe in any of the meetings of that Towne where hee dwells.

To nominate marshall.

That the High Sherriffe shall have the nomination of the Marshall in each Riding, and is to take Security from them.

Each Riding shall have their Turne in haveing a Sherriffe Chosen within their Jurisdiction Sucessively And the Justice in the last Sessions before the Expiration of the Office of the then Sherriffe, shall present to the Governour in writing; the names of three persons within their Jurisdiction,

Choosing of sheriff.

out of which the Governour may make Choice of one to be Sherriffe for the Yeare ensuing.

Townships.

Constitutions for towns.

Whereas in perticuler Townes many things do arise, which concerne onely themselves, and the well Ordering their Affairs, as the disposing, Planting, Building and the like, of their owne Lands and woods, granting of Lotts, Election of Officers, Assessing of Rates with many other matters of a prudentiall Nature, tending to the Peace and good Goverment of the Respective Townes the Constable by and with

the Consent of five at least of the Overseers for the time being, have power to Ordaine such or so many peculier Constitutions as are Necessary to the welfare and Improvement of their Towne; Provided they bee not of a Crimminall Nature, And that the Penaltyes Exceed not twenty Shillings for one Offence, and that they be not Repugnant to the publique Lawes; And if any Inhabitant shall neglect or refuse to observe them The Constable and Overseers shall have power to Levie such fines by distress.

Punishment for offenses at town meetings.

If any man shall behave himselfe offensively at the Towne meeting towards and before the Constable and Overseers they shall have power to Sentence him for such offences, the penalty not exceeding twenty Shillings, Provided Alwayes that every such peculier Constitution be confirmed by the Court of Sessions, within four Months after the making thereof, Otherwise to bee voide and of none effect.

Constitutions to be confirmed by court.

Hearing and determination of small causes.

Whereas it is formerly Exprest, That small Causes shall be Arbitrated in Townes; It is to bee understood That the Constable and Overseers in theire Towne Court are first to take Cognizance, if under the value, and then to proceed either to Judgement, if the Case bee Cleare, or propose Arbitration, if above the value.

Votes.

Votes in private affairs of towns.

All votes in the private affaires of Particular Townes shall be given and Determined by the Inhabitants freeholders, Householders, and in matters Commited to Arbitration, or att Sessions, either as to Juryes in all Cases or to Justices on the Bench, where the Law is not Cleare shall bee Carried by the Major part of the Suffrages, The minor to be concluded by the vote of the Major.

Weights and Measures.

Standards of weights and measures, to be provided.

That the high Constable in each Riding shall provide at the Publique charge Severall Standards of weight and Measures, which shall be sealed with a Common seale appointed for that purpose, that they may be uniform and Certaine (viz) for weights a Sett of Brasse weights to four pounds with the less weights included according to the Averdupois pound, consisting of Sixteene Ounces, with a good Beam fitt to weigh and try them for Corne measures That there be one Bushel one Peck, and one halfe Peck to be fitted to winchester Measure in England; and Measures for Liquids as the Ale quart Wine quart, wine Pint, and halfe Pinte, And that there be one Ell, and one yard, that all and each may be according to the General Custome of England; And in Goods sould by the Hundreds weight five score and twelve to bee allowed Except in Nayles sould by the hundred to which Six Score is to be allowed to the hundred, And in goods sould by the Elle and yeard one Thumbs breadth be allowed to the Length of the Elle and yeard, And the high Constable is to Take Cognizance, that the Constable and Overseers of every respective Towne do also provide at their Townes Charge the like weights and Measures Suitable to the Standard and the Constable and Overseers shall Choose some fitt man in

High constable to see that towns are furnished with copies of standards.

Sealers to be appointed. each Towne to be Sealer of such weights and measures; which man so Chosen, they shall present to the next Court of Sessions And their to be Sworne to the faithfull discharge of his duty And hee shall have power to send forth his warrants by the Constable to all the Inhabitants of their Towne, to bring in all such weights and measures as they make use of, once every year at such time and place as he shall appoint and then to fitt them to the standard aforementioned, and marke them with the Town mark And the Sealer shall have for every weight and measure from the owners thereof two pence at the first Sealing, and for viewing and resealing them yearly after one penny. And all such weights and Measures as cannot bee brought to their just standard he shall deface or destroy them; And if any high Constable, Overseers or Sealer shall Neglect his or their Duty and trust he or they shall pay as a fine to the Town forty Shillings, And every person that after due notice given shall Neglect to bring in his weights and Measures, he shall pay three Shillings four pence for every such default, the one half to the Sealer the other to the Town, And if at any time any Person within this Goverment shall buy or sell by any false or unallowed weight or Measure to the Damage of his neighbours, he shall forfeit (besides Correction) Treble the value to the Towne.

To be sworn.

Powers and duties.

Compensation.

Punishment for neglect of duties.

For selling by false weight or measure.

Witnesses.

No one to be put to death without testimony of witnesses, &c. No man or woman shall be put to Death, without the Testimony of two or more witnesses, the Confession of the Party, or other Equivalent Circumstances.

Swearing of witnesses in certain cases. In all Causes (whether Civill or Criminall but not Capitall) properly falling under the Cognizance of a Constable and Overseer, it shall bee lawfull for the Constable to require and take the Oath of any witness above the age of fourteen years and of Sound understanding and make a record thereof, that if any Court of Assizes or Sessions, shall at any time make a review of such Cause, the evidence Also may Appeare.

Compensation. Every Witness, in any Action may requireas due to him from the Party at whose Suite hee appears two Shillings for every Days attendance, but unless a witness bee Served with a Subpena to give in Testimony, it is in his Choice to appear or not but after a Subpena Served, he shall have onely eighteen pence per Diem.

Not compelled to appear, unless subpœnaed.

Party delinquent, to pay costs. It is always to be understood That the Party Delinquent or Cast, whether in Civill or Criminall Cases, shall pay all Charges of what kind soever which arise from the prosecution of the Suit.

Wolves.

Reward for killing wolves. If any Person either Christian or Indian, shall at any time bring the head of a Wolfe or Wolves to any Constable upon Long Island, the said Constable is required to Call two of the Overseers to him and then and their to pay and Satisfie such person or Persons to the value of an Indian Coat; to be allowed out of the publique Charge in the Towne Rate Provided alwayes that the Constable and Overseers shall require the Oath of such Christians, that bring the head of a

wolfe or wolves, that he killed the said wolfe or wolves, with the time and Circumstances and upon Long Island only, Provided also that the Constable and Overscers have due regard to such wolfe or wolves brought by the Indians, that they appear to be fresh and newly killed, with Circumstances that they are killed upon Long Island and not else where; The Constable and Overseers are to cause the heads to be nayled over the doore of the Constable their to remain, as also to Cut of both the Eares in token that the head is bought and paid for.

Persons producing heads of wolves, to be examined.

Heads to be nailed over constables' doors.

Wrecks of the Sea.

If any shipp or vessel belonging either to friend or Enemy shall at any time Suffer Shippwreck upon any of the Coasts of Goverment There shall no violence or wrong be offered or done to their Persons, or Goods; but their Persons shall bee harboured and relieved, their Goods preserved from spoile and Embezlement, And all Justices of the Peace, Mayers Sherriffes, high Constables, Petty Constables, and Overseers, are Strictly Charged and required to be vigilent therein and upon notice of any such ill accident within their precincts, to repaire to the place and give good Order therein, for the reliefe of the persons and Security of the Goods, untill notice thereof be given to the Governour and Council who will proceed therein According to the law of England and Cause full Satisfaction to be given to such as have Employed their time and Labour to the preservation of the persons and Goods.

Persons shipwrecked, to be relieved.

And their goods preserved.

The goods of friends are by Warrant from the Governour and Councill to be restored to the Ownes, if any Canne be found or knowne.

Goods of friends, to be restored.

Also any whale or such like great fish cast upon the Shoare of any precinct, shall be taken into the Care of any of the Officers above mentioned to bee kept, or improved where it cannot be kept, and by such Officers onely, untill the Governour and Council (after notice sent) shall give further Order therein.

Whales cast upon shore, to be placed in custody of officers.

And the Acknowledgement which shall be received for Whales, or such Like great fishe Cast upon the shoare of any precincts shall be the fifteenth Gallon of Oil.

Acknowledgment to be received.

Warrants.—Speciall Warrants and Speciall Licences.

All writings warranted or Licenced under the Governour his hand and Seale, shall be Esteemed and Observed as Speciall Warrants, Licences to all Intents and purposes.

Special warrants and licenses.

Oathes.

Whereas you are Chosen and appointed by the Governour and Council, Established under his Royall Highness the Duke of Yorke to be a Justice of the Peace over the Jurisdiction of the W, N, E, Riding of yorkshire upon Long Island, You do Sweare by the Ever living God, that you will truly Endeavour, to the best of your Skill, with a good Conscience and according to the Lawes of this Government, Dispense Justice Equally and Impartially in all Cases and to all persons whereunto by virtue of your Office you are impowered. So help you God.

Oath of justice of the peace.

Oath of high sheriff.

Whereas you are Chosen and appointed by the Governour and Council, Established under his Royall Highness the Duke of Yorke to be High Sherriffe for this present year, 1666 Over Yorkeshire you do Swear by the Everliving God, that you will discharge the Trust reposed in you, with a good Conscience and diligence and without partiality to Persons, you will by your Selfe or your Sufficient Deputy Issue forth all such writts, Serve Attachments, Executions, Judgments as properlly belong to your Office, and punctually observe all warrants to you directed from any Court or Superior Authority of this Goverment, you will from time to time Call the high Constable of each Riding to an Accompt for all fines, Levies, Assesments and all other publique Moneys in their hands, and returne the names of such as fail in their Duty to the Governour and Council using your best Endeavour for the Collecting and bringing the said Sumes to the Governour and Council at New York, you will also render yearly a true Accompt and make good payment thereof, And will in all things behave yourselfe according to the quality of your Office, and the trust reposed in you So help you God.

Of high constable.

Whereas you are Nominated and Confirmed by the Governour & Council under his Royal Highness the Duke of York, in the Office of high Constable within the Jurisdiction of N, W, E, Riding of Yorkeshire upon Long Island you do Swear by the Ever living God, That you will discharge the trust reposed in you, with a good Conscience and diligence in all things whereunto you are empowered by Law; you will fully execute and performe all manner of writts Summons warrants, or the like, which shall be to you directed from the Governour and Council, the Justices of the Peace within this Riding or the high Sheriffe of Yorkshire, you will diligently and truly take the accompts from each petty Constable and them deliver to the high Sheriffe with the name of the Constable or Constables as Shall fail in their Office in not Collecting and bringing to you such sum or sums as are due to the publique, within their Respective Townes So help you God.

Of town constable.

Whereas you are Chosen in your Towne, and Confirmed by the Justices of the peace of the East Riding to be Constable of East Hampton Towne for one year, and until another bee Sworn in your place, you do Swear by the Everliving God That you will carefully endeavour the preserving of the peace and the discovery and prevention of all Attempts against the same you will duly Execute all Speciall warrants which shall be sent unto you from the Governour and Council Established under his Royall highness the Duke of York and faithfully Execute all such warrants and Orders of what nature soever from the Courts Established by Law with your utmost care and diligence Impartially you will faithfully and With what speed you Can Levy all such fines Rates and Sumes of Money, due to the publique, in such moneys or Goods valuable for which you shall have Sufficient warrant; rendering accompt thereof and the defaults to the high Constables and with like faithfulness, speed and Diligence will serve all Attachments Executions distresses in private Causes, Betwixt party and party according to the Sentence of Court,

and make returns thereof duely where they are returnable into the same Court, And further you will frequently, Advise and Counsel with, and when any difference ariseth within your Towne and limits by small Actions or otherwise as is by law appointed, you will Assemble a convenient Number of the Overseers of the Towne and Limits to sitt as a Towne Court, for the Hearing, determining or Composing all matters pertaining to your Cognizance. And in all things behave yourselfe, as becomes the Office of a Constable and your duty to the Lawes of this Government, So help you God.

Oath of overseer.

Whereas you are Chosen and appointed an Overseer in the Towne of Southampton you do Sweare by the Everliving God that, that you will faithfully and diligently discharge the trust reposed in you, in Relation to the publique and Towne affaires, according to present Lawes Established, without favour affection or partiallity to any Person or Cause which shall fall under your Cognizance as an Overseer, And at time, when you shall bee required by your Superiours to Attend the private differences of Neighbours, you will Endeavour to reconcile them, And in all Causes Conscientiously and according to the best of your Judgment deliver your voyce in the Towne meetings of Constable and Overseers So help you God.

Of a juror.

You do Sweare by the everliving God; That you will Conscientiously deliver your Verdict in the Cause, between A, B, and C, D, in this Court; According to the Evidence given you, and the Lawes of this Goverment So help you God.

You do Sweare by the Everliving God; That you will Conscientiously try and truly deliver your verdict Between our Soveraigne Lord the King, and the Prisoner att the Barre According to your Evidence, and the Lawes of this Goverment, So help you God.

Witness.

You do sweare by the Everlasting God, that the evidence you shall give into this Court, Concerning the Cause or Person now in question, shall be the truth, the whole truth, and nothing but the truth; So help me God,

Appraiser.

Whereas you are Chosen Apprizer of such Goods Lands Houses or Cattles which are now under your Consideration you do here Sweare by the Everliving God, That all partiality, prejudice, or any Sinister respects laid aside; you will Apprize the same, and every part thereof according to the true value thereof at the prise now Currant according to your best Judgment and Conscience So help you God.

Marshall.

Whereas you are Chosen and appointed Marshall for this Jurisdiction; you do Sweare by the Everliving God to be true and faithfull in your Office, not to suffer wittingly or willingly any Prisoner commited to your Charge to Escape, nor to sett any Prisoner at Liberty without a Legall warrant for his deliverance, as also that you will not exact Extravagant prices, but conforme your Selfe to the Rates allowed for the Lodging and dyat of Prisoners without fraud or Corruption So help you God.

Viewer of pipe staves.

Whereas you are Chosen and appointed viewer of pipe staves, within the Towne of —— you do Sweare by the Everliving God, that at all convenient times whilest you shall be

in place, or shall be required to Execute your Office, you will duely and diligently attend the same and without favour Affection or Corruption Sort all Pipe Staves presented to you rejecting such as are not Merchantable, and make a true entry thereof according to Law, So help you God.

Oath of surveyor. You do swear by the name of the Everlasting God that in the office of a Surveyor, you will according to the best of your skill and abilitys, diligently and faithfully discharge the trust Commited to you, without fraud or Corruption So help you God.

Of notary public. You do Sweare by the name of the Everliving God That in the Office of a publique Notary, you shall demeane your Selfe diligently and faithfully, according to the duty of your Office, And in all writings, Instruments and Articles that you are to give Testamony unto, when you shall bee required; you shall performe the same truly and sincerely according to the nature thereof without delay or Covin, And you shall Enter and keep a true Regester of all such things as belong to your Office So help you God.

Packer of beef, pork, &c. Whereas you A, B, are Chosen Packer of Beefe, Porke and other things, for the Towne of——you do hereby Sweare by the name of the Everliving God, that you will well and truely Pack all Beefe, Porke and other things when you shall be thereunto required, you shall Pack no kinde of Goods but such as are good and Sound nor any Goods in any Caske, that is not of a Just and full Gage; you shall also sett your particular marke upon all Caske Packed by you; And in all things proper to place of a packer you shall faithfully discharge the same from time to time, according to your best Judgment and Conscience, So help you God.

Council. You being Admitted of the Council of the Governour under his Royall Higness the Duke of Yorke within these Territoryes Comprehended in his Majesties Letters Patents, do Sweare that you will to the best of your Judgment, and at all times freely give your advice the Governour for the good Management of the Publique Affairs of this Government, and that you will not Reveale directly nor Indirectly such matters as shall be debated in Councell, or committed to your Secrecy but will in all things be a true and faithful Councellour when you are thereunto required, So help you God.

Precedents and Formes.

Form of summons. To A B, of C, Carpenter you are required to appeare at the next Court holden at D, on the Day of the Moneth of—— next ensuing, to answer the Complaint of E: F: for withholding a debt of——Due upon a Bond or Bill, or for two Hoifers and Sould unto you by him, or for worke, or for a Trespasse done him in his Corne or Hay, by your Cattle or for a Slander you have done him in his Name or for striking him or the like, and hereof you are not to fail at your perill; Dated the day of——the Moneth, and the year of our Lord.

Attachment. To the Justices, high Sheriffe, under Sheriffe high Constable, Constable of C, or their Deputyes you are required to

attach the Body and Goods of G. H., and to take Bond of him to the value of with Sufficient Surety or Suretyes for his appearance at the next Court holden at S, on the day of the Month of Then and there to Answer the Complaint of T M, &c. as before and to make a true Returne thereof under your hand Dated the Day &c.

Bond to appear.

Know all Men by these presents that we A B, of C yeoman, and O P, of the same Carpenters do bind ourselves, our heires and Executors to R F, high Sheriffe or M O, Constable of C: aforesaid &c. in pounds upon Condition that the said A B, shall Personally Appeare at the Next Court of S to Answer L M in an Action of and to abide the Order of the Court therein, And not to depart without Lycence.

Replevin.

The Justice, high Sheriffe, under Sheriffe high Constable Constable of or their Deputyes you are hereby required to Replevin three Heifers of T P, now distreined or Impounded by A B, and to deliver them to the said T P, Provided he give Bond to the value of with Sufficient Surety or Sureties, to Prosecute his Replevin at the next Court holden at B, And so from Court to Court, till the Cause bee ended and to pay such Cost and Damages, as the said A B. shall recover by Law against him, and So make a true returne thereof under your hand Dated; &c.

The Markes for Horses of Every Towne upon Long Island.

Marks for horses.

A East hampton
B Southampton
C Southhold
D Seatalcott
E Huntington
F Oyster Bay
G Hempsteed
H Jamaica
I Flushing
K West Chester
L New Towne
M Bushwick
N Brookland
O Flat Bush
P Flat Land
Q Vtricht
R Gravesend

Amendments to laws.

HAVING received Information that at y^e late Sessions held in the Severall Ridings of Yorkshire upon Long Island divers inconveniences were found in some particular Lawes and other things needful to be incerted therein have beene omitted; I have thought fitt to Send unto you these following Amendments and additions which you may Communicate for the present to the Severall Towns within your riding and at the Assizes they may receive further Confirmation or alteration as shall be found most Expedient.

Holding of town courts.

I do recommend unto you that to prevent the trouble of to frequent holding of towne Courts, a Court may be held in each respective Towne at some Convenient certain tyme either once in two or three or four weekes as you shall Judge most fitt; And if any one shall desire to Call a Court any other tyme that he pay for the trouble and charges thereof as it shall be reasonably adjudged by the Court.

Pay of jurors and witnesses.

That henceforth the payment of Jurymen and witnesses who shall attend the Court of Sessions or Assizes be from the tyme of their going from home to their returne, That a witness shall be allowed 2*s*. per diem where he gave in his evidence voluntaryly or being served by subpena. That the

General trainings for certain towns, respited.

general trayninge appointed for the townes of the East riding (In regard of their distance) be respited till further order.

Certain towns may unite in raising military company.

That the Towne of Huntington and Oyster bay (though of several ridings) may joyne in Compleating their Company of foote but the Captain and Lieutenant are not both to be of the same Towne.

Deputy constable for certain town.

That in regard of the distance of the Jnhabitants of North Sea from the towne of Southampton (to which it doth belong) there be a deputy Constable appoynted with power to keep his Majesties peace and to execute such warrants and orders as hee shall receive from his Superiors.

Contribution to public charges.

That In regard the Condition of distracted persons may prove of publique Concerne, and for that it is to greate a burthen for one Towne allone to beare, It may bee taken into Consideration at the Assizes whether the other townes of that riding ought not to Contribute to the Charge, and as Care may then be taken therein for the future so some way of Satisfaction may be thought on for extraordinary trouble past; upon the like account.

Certain fine collected, to be returned.

That no fine ought to be imposed or levied on a persons Estate who is not in his sences, And whereas a fine hath binn levied upon one of the Inhabitants of East Hampton who is in a distracted Condition which fine was formerly ordered by Mr. Winthrope to be returned, The Justices or the officers of the Towne are to take Care the said order be performed.

Constables may furnish Indians with powder, &c.

That the Constable of each Towne During his office may furnish the Jndians with such quantity of powder as may be thought necessary for their killing of wolves and provisions And also may permit them to have theire gunnes mended

the said Constable giving an account of what is so furnished and permited by him to the Indians at the next Sessions.

Town laws, to be confirmed at assizes.

That the peculier Lawes and Constitutions of sundry townes within your Riding which are now allowed to be of force amongst them (as well such as were made before the publique Lawes were declared as since) be brought in at the next Assizes there to receive Confirmacon or alteration or amendment.

Excuse of constables from attendance at sessions.

That for the greater ease of the Constables of the East Riding in the execution of their Office (their Townes lieinge so remote one from another) the said Constables may be excused of their attendance at the Sessions, Provided one of the Overseers from each Towne who shall be nominated of the Jury do give attendance in his place with the Staffe of the Constable.

Purchase of liquors for private use, allowed.

That whereas it is ordered in the Laws that noe man sell a less quantity of Liquors then a Quarter Cask without a Licence &c: It is to be understood that noe man is hereby hindered for buying for his owne private use any quantity of Liquors provided he do not sell by retaile without a Licence.

Punishment for refusing to serve as overseer.

That whosoever (being duly elected) shall refuse to serve as an Overseer shall pay the same fine as is appointed for a Constable refusing to serve in his office.

For refusing to serve on a jury.

That Whosoever shall be nominated to serve in a Jury without Just Cause showen shall refuse it he shall forfeit twenty shillings towards the defraying publique Charge which is to be Levied by the Constable.

For burglary and robbery.

That if any person within this Goverment shall commit burglary by breaking up any dwelling house or shall robb any person in the field or hie wayes the person offendinge shall for the first offence be branded on the forehead for the Second offence he shall be branded as before and Severely whiped and for the third offence he shall be put to Death.

For larceny of fruit, vegetables, &c.

If any person shall robbe any orchard or Garden or shall steal away any linnen woollen or other goods left without dores he shall pay treable Damages or be whiped.

For stealing goods of value of ten shillings or over.

If any one shall steal from another any Coyne, goods, or Cattles to the value of ten shillings or upwards he shall be whiped or pay such a fine as the Court shall Judge to sattisfie all Damages with Costs and Charges of Court, and it Is also left to the Discression of the Court to appoint smaller matters or punishments for smaller offences of that kind.

Search warrants.

That the Constable by warrant from a Justice of the peace may make search in any house or place suspected both for the offender and the goods stolen, and whosoever having his goods stolen shall privately receive them and shall not legally prosecute the offender he shall forfeit to the publique use the goods received or the value.

RICHARD NICOLLS.

To the Justices of the peace High Sheriffe and all other officers both military and Civill in the East Riding of Yorkshire on Long Island.

SOME Alterations Amendments and Additions made in the Lawes and confirmed att the Generall Assizes held in New Yorke the 28th and 29th Dayes of September and the 2nd, 3rd and 4th Dayes of October 1665.

Punishment of constablesfor absence from sessionor assizes.

If any Justice of the peace or high Constable shall be absent from the Sessions held within that Rideinge where hee Inhabitts, or from the Generall Court of Assizes, he shall pay for every Dayes absence, tenn pounds, And every Petty Constable for each Default shall pay five pounds, unless one of the Overseers who shall be nominated of the Jury Doe give attendance on the Court in his place, with the Constables staffe Provided after that it shall be Lawfull for the Justices of the Bench to discharge any Constable from his appearance, if they think fitt.

Arbitrations.

In all Accons of what nature soever not exceedinge the value of five Pounds between Neighbours, Arbitration of two indifferent Persons of the Neighbourhood shall be tendred, which persons are to bee nominated by the Constable of the place before it be brought to a Towne Court and if either or both parties shall refuse (upon any pretence) to stand to Arbitration Then the Court shall Determine the Case If above the value then the next Justice of the Peace upon the Complaint of the party shall propound Arbitration to both Parties and if they accept thereof the Justice is to nominate the Arbitrators But if either Party refuse, Then the Justice is to give fourth his warrant as the Action requires.

Compensation of constables, justices, and arbitrators.

In all differences under five pounds not tryable in Sessions the Constable is to have one shilling for nameinge Arbitrators to whom if the difference be referred, they shall have two Shillings and Sixpence each, If the Action is brought to the Justice, he shall have two Shillings Six pence for nomination, And the Arbitrators hee appoints two Shillings Six pence each.

Frequent holding of town courts.

That to prevent the trouble of two frequent houldinge of towne Courts a Court may be held in each respective Towne at some Convenient certaine tyme either once in two, three, or four weeks as shall bee adjudged most meete, And if any shall desire to Call a Court any other time that hee pay the Charge and trouble thereof, as it shall be reasonably adjudged by the Court.

Judgment to be given by majority vote.

In Towne Courts the Constable and Overseers are to give their judgment by the Major Vote, where six with the Constable, or Seaven in his absence, are Competent and equivolent to a Jury, and the Constable upon equall Division, is to have a Casting voyce.

Fees of town courts.

The fees belonginge to the Towne Courts shall be halfe of what is allowed at the Sessions, as the fees of the Court of Sessions are halfe of the fees of the Assizes.

Titles of Land as well as other accons are to be tryed in

Sessions unlesse being above the value of 20*l.* they shall bee Ordered to bee tryed at the Assize by the Governour's Speciall warrant. Actions triable at sessions.

Accon of Debt &c. above the value of 20*l.* may likewise bee tryed at the Assizes by Speciall Warrant from the Governour.

Those that live att great distante from Courts, are to have the heads of the plts: Declaration, left at the Place of their Abode as well as the Summons before the tryall, eight dayes. Service of process on persons distant from courts.

Where the Originall Point is matter of equity the proceedeings shall bee by way of Bill and delivering in Answers upon Oath and by the Examination of witnesses, in like manner as is used in the Court of Chancery in England, And due regard must be had that the Defendant have timely notice thereof, as is appointed at Common Law; which is eight dayes warning before the Court shall sitt. Equity proceedings.

That all Originall Wills after haveing beene prooved att the Court of Assizes or Sessions and returned into the Office of Records att New-Yorke shall remaine there, and the Executors Administrators shall receive a Coppie thereof, with a Certificate of its being allowed and attested under the Seale of the Office. Executors to receive attested copies of wills.

Administration may be granted by the Court to any Person, the Second Sessions, but to widow or Child, Brother or Sister immediately. Granting of administration.

A (Quietus) is to be procured within a yeare and six weeks after Administration is granted or a will prooved. *Quietus*, when to be procured.

All Reasons of Appeale as well as Declarations are to be delivered into the Clarke of the Assizes or Sessions, eight Dayes before the Court sitts. Filing appeals and declarations.

The Security to be given for prosecuteinge of appeales, shall be taken by the Court the party appeales from, and for the prosecution of any other suit at the Assizes Security shall be given to the Clarke of the Assizes. Security for prosecuting appeals.

All appeals are to bee made by way of Petition to the Governour and Council, and the Appeallant shall pay tenn shillings upon the deliverie of his Petition, over and above two Shillings Six pence to the Clarke of the Assizes, for Entering of the Appeale. How appeals to be made, and cost thereof.

These words (a Justice of the Peace) are to bee Added in the beginninge of this clause (vizt) Jt shall be lawfull for the the plaintiffe or Defendant to take out a Subpena from a Justice of the Peace, the Sherriffe or under Sherriffe. Addition to certain clause.

That Whereas it is said in the second Clause the Sheriff shall remove the Goods, out of the possession of the Plaintiffe &c. It is to be altered and written out of the possession of the Defendant. Alteration of certain.

And whereas it is therein also said the Execution is too bee returned by the Sheriff to the Clarke of the Sessions that Granted it, in stead of Granted it its to bee, that Signed it by order of the Court.

That the Persons who shall be nominated and Chosen Apprisores of Goods lands or whatsoever else, shall be taken in execution are to bee allowed fouer Pence per pound, for what Compensation of appraisers.

shall be by them soe apprised which is to bee payed by the party Cast in the suit and risen Accordingly.

Amendment of certain clause. The latter end of the 4th Clause is to conclude thus (vizt) In which case also hee shall not be Arrested, but by speciall warrant.

Granting of special warrants. Noe High Sheriffe or Justice of the peace may at any tyme grant a speciall warrant But dureing the tyme of the sittinge of the Court of Sessions the whole Bench may grant it.

Provided that the previledges belonginge to the Corporation of the Citty of New York, bee not hereby infringed, But that it shall and may be Lawfull for any of the Inhabitants thereof to Arrest a Debtor in the said Citty, though the place of his abode shall happen to bee in any other Towne within this Goverment and the person so arrested, to sue and Impleade in the Citty Court, any Law to the Contrary in anywise notwithstanding.

Further amendments. In Asessments add the words in the Parenthesis, in the first clause (vizt) And every Inhabitant who shall not contribute (to all Charges both Civill and Ecclesiasticall) Proportionably to the Rate so Assessed &c.

In the first Clause, its to bee written the Generall Court of Assizes &c.

Calling court of assizes by special warrant. A Court of Assizes may also bee Called at any tyme (by speciall warrant) to heere and Determine Civill Causes (that require a speedy dispatch) as well as Criminall.

Issue of process. No other Processe shall Issue forth for tryall of Accons at the Assizes, But the Governoures speciall warrant, Except in Cases of Appeale.

Negligent escape. To Bayle one not Bayleable is a negligent escape in the Justice, or in any other authorized to take Bayle.

To be added, (or on some other paper or parchment annexed to it.)

Title papers, &c., to be recorded. All Lands Pattents and Bounds and limits of Townes are to bee Recorded in the Office of Records at New Yorke as well as in each Particular Towne, and at the Sessions.

Burglary and robbery, punishment for. That if any Person within this Goverment shall commit Burglary by Breakeing upp any Dwellinge House, or shall Robb any Person in the field or highwayes, the Person so offending shall for the first offence, be branded on the forehead, for the second, hee shall be branded as before, and severely whipt, and for the third offence hee shall bee putt to Death.

Robbing orchards, defacing dwelling houses, &c. If any Person shall Robb any Orchard or garden, or shall steale away any Linnen wollen or other Goods left without Doores or shall wilfully deface or spoyle any Dwelling House, or out House or any part thereof, or any thing belonging thereunto, he shall Pay treble Damages or bee whipt.

Larceny of goods of value of ten shillings or over. If any Person shall take from an other, any Corne, Goods, or Cattles to the value of tenn shillings or upwards, he shall be whipt, or pay such a fine as the Court shall adjudge, to satisfy the Damage, with the Costs and Charges of Court, And it is also left to the Discretion of the Court to appoynt smaller Mulcts or Punishments for smaller offences of that kinde.

That the Constable by warrant from a Justice of the Peace,

or upon sudden occasion without warrant (haveing with him the staffe of His office,) may make search in any House or place suspected both for the offender, and for the goods stolen, And whosoever haveing his Goods stolne, shall privately receive them and shall not legally prosecute the offender he shall forfeite to the Publique use the Goods so received or the value. Search warrants. Goods stolen and returned, to be forfeited, unless offenders prosecuted.

In Cases of Adultery all proceedinges shall bee accordinge to the Lawes of England which is by Divorce (if surd) Corporall punishment or fine and Imprisonment. Proceedings in cases of adultery.

All those who shall have their Cattle markt, with the Towne marke, shall pay to the Officer that markt them, two pence per head. Charge for marking cattle.

That it shall be left to the peculier Lawes of Towneshipps to allow what more they shall thinke fitt, to give for the Impounding of Cattle, than herein is exprest. For impounding them.

The Charge of each Cause bee as followeth (vizt) Every Cause of or under five Pounds shall pay two shillings six Pence, from five Pounds and under tenn Pounds, five Shillings, from tenn Pounds, and under twenty Pounds, fifteen Shillings, from twenty Pounds and under forty Pounds twenty Shillings, And for every tenn pounds more above forty Pounds two Shillings Sixpence; That money so Levied is to go towards the defraying of Court Charges. Charges for causes.

That such Churches shall be built within three years, after this assizes, to which end a Towne Rate may bee made to begin this yeare. When churches to be built.

That the Office of the Churchwardens aforementioned is to be performed by the Constables & all the Overseers who are to take the like care as is required of the Churchwardens. Office of churchwarden, by whom to be performed.

That the Second Clause in Charges Publique bee left out of the Booke. Certain clause, stricken out.

In the third Clause, warrants are to bee Issued by the High Sherriffe to the High Constable of each Riding who shall send warrants to the Constables &c. Issue of warrants.

In the 5th. 7th. 8th and 9th Clauses the High Constables name is also to bee incerted to act between the high Sheriff and the Constables. Certain clauses amended.

The Constable of each Towne during his Office may furnish the Indians with such quantity of Powder and shott as may be thought necessary for their killing of woolves and provisions, And also may permitt them to have theire Gunns mended; the said Constable to give an accompt of what is so furnished and permited, by him to the Indians at every Sessions. Constables may furnish Indians with ammunition, &c.

That in regard of the distance of the Inhabitants of Northsea, from the Towne of Southampton (to which it doth belong) there be a Deputy Constable appoynted with power to keepe his Majesties peace, and to execute such warrants & orders as hee shall receive from his Superiours. Deputy constable for certain town.

That whosoever (being duly elected) shall refuse to serve in the office of a Constable, hee shall forfeite for his refusall, the summe of five pounds, towards the defraying of Towne Charges. Punishment for refusing to serve as constable.

How warrants to be issued. Memorandum, that noe warrants are to bee Issued by the Clarke of any Court, but in the name of the Court.

Each town to contribute to public charges. That in regard the Conditions of distracted Persons, may bee both very chargeable and troublesome and so will prove too great a Burthen for one Towne alone to beare, each Towne in the Rideing where such person or persons shall happen to bee, are to Contribute towards the Charge which may arise upon such occasions.

Fees of justices. The Justices fees for nominatinge Arbitrator is to be altered from 7*s.* to 2*s.* 6*d.*

Court fees. Court fees, are either to bee payed to the High Sherreife, or the Clarke of the Assize, or Sessions who are to bee accomptable for them.

All Court fees are to be levyed by distress or put into the execution with the Debt and so risen.

Fees of clerk of sessions. The Clarke of the Sessions shall have for the entry of each accon for tryall two Shillings six pence, whereas as it was before but one Shilling.

Of sheriffs. The Sherreifes fees in Appeales shall bee the same as in other Accons.

Transportation of mares. The proviso for liberty of transportation of Mares shall continue three years longer then the tyme formerly allotted, And (if found convenient) at the expiracon thereof may bee continued for a longer tyme.

Liquors, sale of, &c. That Inn keepers or Ordinary keepers, shall not bee obliged to put any perticuler quantity of Mault into their Beere, but they shall not sell theire Beere above two pence the quart, nor any Liquors above twelve Shillings the Gallon, under the penalty of twenty Shillings for each Gallon so Sold, Provided alwayes, and it is to be understoode, that noe man is hereby hindered from buying for his owne private use, any quantity of Liquors, And it shall and may bee Lawful for any Person, to sell such quantity to him, so that hee doe not sell it againe by retaile without a Licence.

That if any Complaint bee made to the Officers of a Towne, against selling of Liquors att two unreasonable, and extraordinarie rates, by Ordinary keepers, or others, they have power to give redress therein.

Pay of jurors and witnesses. That the payment of Jurymen and witnesses, who shall attende the Court of Sessions or Assizes shall bee from the tyme of theire goeing from whom to their returne.

Punishment for refusing to serve on jury. That whosoever shall be nominated to serve in Jury and without Just Cause showed shall refuse it, he shall forfeit twenty Shillings, towards the defrayinge of Publique Charges, which is to be levied by the Constable.

Exceptions to jurors. And the Court upon Occasion is to Judge of other Just exceptions against Jurors besides kindred.

Granting replevin, *ex officio.* The Justices of the Peace, High Sherreife or under sherreife may grant Replevine ex Officio.

Justices may preside over town courts. Whereas it is said Justices may preside in Towne meetings it is to be written in Towne Courts.

Additional compensation to justices. Every Justice of the peace, shall have allowance of Twenty pounds per Annum to bee payed out of the publique Rates, towards the defrayinge of theire Charges, over and above

what may arrise out of the fines and Amerciaments not otherwise disposed of.

To the end all former Purchases &c: all persons whatsoever who have any grants or Patents of Towneshipps, Lands or Houses, within this Goverment shall bring in the said Grants or Patents to the Governour and shall have them Revewed by Authority from his Royall Highness the Duke of Yorke, before the beginninge of the next Court of Assizes. Grants and patents to be brought to governor, and be reviewed.

That every Purchaser &c. shall pay for every hundred Acres as an Acknowledgement two Shillings and Six pence. Payment of acknowledgement by purchasers.

All persons to bee accompted of fitt age to Marry, when the Man shall attaine to the age of twenty one, and the Women of Eighteene years. Marriagable age, defined.

Every Trooper listed in any Troope of Horse shall keepe and maintaine a good Horse for service when required fitted with Saddle, Bridle Holsters and Pistells, or a Carbine and a Good sword under the penalty of tenn Shillings for the least default, Neither shall any Trooper sell, or change his horse, and leave himselfe destitute, under the penalty of five pounds, And for non appearance upon Dayes of Muster and Exercise, tenn Shillings a day, Neither is it Lawfull for any listed Trooper to disband himselfe (But with leave from his Captaine) under the penalty of fifty Shillings. Punishment of trooper for not keeping outfit, selling horse, &c.

Or by any Justice of the Peace of the same Rideing, out of Sessions, the Oath appoynted for Overseers being administered unto them.

That whosoever (being duly elected) shall refuse to serve as an Overseer shall pay the same fine, as is appointed for a Constable refuseing to serve in his Office. Punishment for refusing to serve as overseer.

That the Justices of the Peace of each Rideinge shall Cause a peece of Ground to bee layed out in the same Towne where the Sessions shall be keept, whereon shall bee built a Towne House, and Prison which are to bee erected before the next Assizes, for the defraying the charges whereof, a Rate is to be made throughout each Rideing at the next Sessions. Town house and prison, to be erected.

That Pounds and Stocks, shall be Provided in each Towne, by the next Sessions, Under the Penalty of forfeiting forty Shillings for each Towne. Pounds and stocks, to be provided.

That the High Sherreife from year to year is a Justice of the Peace by Virtue of his Office. High sheriff, a justice of peace *ex officio*.

The last Clause of Towneshipps relating to accions beginning where it is formerly expresst &c. shall be left out.

In the Second Clause Towne Meeteing are to bee written Towne Courts. Certain clauses, amended.

Whereas it is said the Peculier Constitutions of Townes, are to bee Confirmed within fouer monthes &c. it is to bee written at the next Court of sessions.

Every Witness in any accon may require due to him from the party att whose suite hee appeares two Shillings per Diem for every Dayes attendance, whether hee give in his Evidence voluntarily, or being served by Subpena, but unlesse a witnesse bee Served with Subpœna its in his Choice, whether hee appeares or not. Witnesses, compensation of. Not compelled to appear, unless subpœnaed.

Whereas Severall Explicacons and some Amendments in

Amendments communicated for action thereon.

the Lawes are thought of present necessity to bee made for the good, and to the Satisfaccon of the Countrey, I have thought fitt to Communicate the Same underwritten unto you, and to Authorize you to Act therein, as by vertue of this my Speciall warrant, Untill such time as they may bee further Enacted and Confirmed at the next Generall Assizes, Given under my hand this 26th of February 1665.

RICHARD NICOLLS.

Excuse of constable from attendance at assizes or sessions.

If the High Constable shall have no publick business at the Assizes or Sessions hee may bee Excused from his attendance by any Justice of the Peace of the Riding to which hee belongs under the hand of the said Justice to bee produced in the Court.

Actions triable in sessions.

All Originall Debts or Trespasses must bee of the vallew of five pounds or not tryable in Sessions.

Trial of matters of equity.

Matters of Equity under five pounds may bee Tryed in Towne Courts, and if under twenty at the Sessions.

Freedom from arrest whilst attending assizes.

No Arrest is to bee made upon the Person of any one attending the publique business at the Assizes whether hee bee Plaintiffe Defendant Witnesse Juror or any publick Officer.

Certain purchases not obliged to be recorded at New York.

The Purchases of Lands under the Value of thirty Pounds are not obliged to bee Recorded at New Yorke.

Payment of acknowledgements, construed.

That whereas it is said in the Lawes, that implanted Lands shall pay 2*s.* 6*d.* for every Hundred Acres, as an acknowledgement to the Duke; Its to bee understood of Lands not formerly Planted.

Price of grain received in payment of public rates.

That the Payments for Publick Rates in all Sorts of graine to bee according to the Price at the time and Place where it is payable.

Compensation of constables for inquiring after estates.

Constables are to have a Competent allowance for the time they Spend in Searching and enquiring after the Estate of the Dead, to bee made by the Justice of the peace before whom hee shall take his Oath of the truth of what he is to Deliver in Concerning the Estate.

For distraining goods.

That two pence in the pound Allowed to Constables for Attachments and apprizement of Goods, is to bee understood of Goods Distreyned.

Compensation of appraisers.

That the apprizers of the Goods of any one Dying Intestate, shall have Satisfaction Allowed them by the Court of Sessions, at the time of their nomination.

Public charges to be first defrayed.

That after the Rates shall be Levyed Publick Charges are first to be Defrayed.

Justices to fix number of sessions and assizes.

That it bee left to the Consideration of the Justices of the Peace at the Severall Sessions in each Riding, whether two Sessions, and one Assizes, may not bee Sufficient for the businesse of the Countrey, and what will bee the most Convenient Season for holding the Courts.

And seasons for holding courts.

Whether March and June will bee most proper for the Sessions, and October for the Assizes.

Sessions in East Riding.

That the Sessions in the East Riding bee kept by turnes in the Townes of Southampton and Southhold.

Certain wills not obliged to be recorded at New York.

That Wills and Administrations of Estates under the vallew of one hundred Pounds, are not obliged to bee Recorded at New Yorke.

Wills to bee proved and Administration granted in Sessions if the Estate bee under the value of one hundred pounds, shall pay one Shilling if one hundred pounds five Shillings and so proportionably five Shillings for each hundred pounds, towards the Defraying Court Charges. Charges for proving wills and granting administration.

That the Plaintiffe at the Entring of his Action shall Enter into Recognizance to pay one Dayes Cost of a Jury for each Action that shall bee brought to bee tryed at the Sessions or Assizes. Plaintiff to bind himself to pay cost of jury.

That whereas it's said in the Amendments of the Lawes, That all Graunts and Pattents are to bee brought in and renewed &c. Its to bee understood, that all old Grants which are to bee brought in, are to bee Confirmed and returned to the Parties. And where no Lawfull Grants are, or that they bee Doubtfull, New and Legall Grants shall bee obtained. Old grants, to be confirmed. Where new ones to be obtained.

RICHARD NICOLLS.

ADDITIONS Amendments and explanacons of some things in the Lawes made and Confirmed at the Generall Court of Assizes held in New Yorke the 27th 28th and 29th Dayes of September and the 1st & 2nd Dayes of October Anno Domini 1666.

Compensation of justices of the peace.

That insteed of the Salary of 20*l.* per Annum formerly Allowed to the Justices of the peace, their Charges shall from henceforth be bourne in their Attendance at the Court of Sessions or Assizes, as also all other extraordinary incedent Charges, about publick affaires, an Estimate whereof is to be given in and allowed of yearely att the Assizes.

To contribute to town rates.

That the Justices of the Peace for the tyme to come are to pay their proportions to the Towne Rates to which they belong and are to bee excused onely from payments in the Rates for publique Charges.

High sheriff continued in office.

That the present high Sherriffe is to be continued in his office until the next generall Assizes at which tyme hee is to give into the Court, true and perfect accompt, of all publique Receipts and Disburstments provided that this shall no wayes Infringe the priviledge in the Law allowed to the North & West Ridings, of haveing each of them a Sherriffe in their Turnes after the expiration of the said tyme.

High constable and under sheriff, to be dismissed.

That the high Constable and under Sherriffe in each Riding shall after the last day in December bee dismissed and discharged, of their imployments when they are to Cleare up their accompts, with the high Sherriffe and the constable in each Towne are to collect this yeares Rate and all others for the future, and what shall be Collected by them is to remaine in their hands untill, the high Sherriffe shall give order for the disposing thereof towards the payments of Publique Charges, which shall become Due within their Respective Towne Shipps.

Their fees, to be added to high sheriff's fees.

That the fees heretofore due to the high Constables and under Sherriffes shall bee added for this yeare ensuing to the high Sherriffe fees.

Power of constable and overseers to bind over offenders, &c.

In the Absence of a Justice of the peace or where no Justice of the peace Resides, upon extraordinary occation the Constable, and Overseers, shall have power to bind over an offender to the next Court of Sessions or assizes and to take Suertyes for their keeping the peace, or Commit such as are guilty of the breach thereof to prison If they shall see Cause.

Admission of new evidence in cases of review and appeal.

That in Cases of Review at Sessions and appeale att the Assizes, new Evidences may bee admitted of If the Court shall see Cause.

When courts of sessions and assizes to begin.

That for the tyme to come, there shall bee held in each Riding but two Courts of Sessions in one yeare, the first to begin on the first, second and third wednesdays in March, the latter on the first second and third wednesdayes, in June, and the Generall Court of Assizes is hereafter to begin, upon the last wednesday in October.

To the end their may bee an orderly way of empanneling of Juryes in any of the Courts of Sessions where the high Sherriffe Cannot bee present, It is therefore ordered that the Clarkes of each Sessions shall bring in a list of what Causes are entered for tryall for Juryes, three Dayes att least before the Sessions is to bee held to any two of the Justices of the peace of the same Riding who under both their hands are impowered by warrant, with equall Capacity as if the said warrant were signed by the high Sherriffe, to Summon a Sufficient Jury or Juryes to attend the publique Service in the said Sessions. Summoning of jurors where high sheriff cannot be present.

That in all Cases to bee tryed, by Juryes at the Generall Court of Assizes the number of Jurors shall be Twelve but att the Severall Courts of Sessions, the same number is sufficient, as already in the Law is sett forth. Number of jurors.

That the number of Overseers in each Towne shall before the first Tuesday in november, next bee Reduced to foure, and whereas election hath bene already made in the respctive Townes of foure new overseers for this present yeare, two of them onely shall continue in their places, and the other two shall be dismist, in like manner two of the old overseers, shall bee dismissed, and the other two shall continue which choice of those, who shall keep in or be discharged of the imployment, shall be determined by the vote of the Major part of the Inhabitants of each Towne. Number of overseers, to be reduced.

That the Constable and foure overseers shall for the tyme to come, have to all intents and purposes, the same power priviledges to act and to do in all matters Relating to their Towne affaires, as heretofore was in the Law allowed, to the number of eight, and that in Towne Courts the Constable and any two of them, have power to heare and decide all such matters as come within their cognizance, as formerly the Constable and foure of them might have done. Powers of constable and four overseers.

That att the tyme prescribed in the Lawes for Election of Constable and Overseers the two old overseers att present Continued shall be dismist, and two new ones are to be Chosen in their stead, and that from henceforth the Elections both for Constables and overseers in each Towne shall be by the vote of the major part of Inhabitants. Election of constable and overseers.

That in each towne Itt bee left to the vote of the Major part of the Inhabitants, whether att the Admission of y^{e} Overseers into their places they shall take the oathes in the Lawes enjoyned, Alwayes provided that if any person of the towne or Stranger, have a Cause or Suit depending to bee tryed in that towne Court where the overseers are not sworne, in such cases that the person may have a lawfull objection against their proceedings, unless the overseers objected against, do first take their oathes, which the Constable hath liberty to administer unto them. Swearing of overseers.

That the publique Rates shall henceforth be payable att one Certayne tyme of the yeare which is to be att or before the last day of December, and the Constables haveing already sufficient Authority in the Law to make distress for non payment, they shall bee lyable to make good the Rates Payment of public rates.

in their Townes, if any part shall bee in arreare or unpayd after the tyme prescribed.

Payment of arrearages.

That the arreares of the former yeares Rates shall be payd into the Constables in every towne without further delay, in the Month of December next, with the present yeares Rate.

Prices for corn, beef and pork taken in payment of public rates.

That the payment of the Rate for publique Charges shall bee made in Corne beefe or porke, att the price herein mentioned (that is to say) wheate not exceeding 5*s*. the bushell Rye and pease 4*s*: Indian Corne 3*s*. and oates 2*s*. 6*d*. beefe att 3*d*. and porke att 4*d*. her pound and no other payment shall bee allowed of.

When constable and overseers to value estates, and distrain for rates.

That whosoever shall omitt, or Refuse to bring in the valuacons of their Estates, to the Constables as is Required the Constable and overseers shall putt a vallue thereupon according to their discreations and destrayne for the same Accordingly.

Punishment for refusing to obey governor's special warrant.

That whosoever shall neglect or Refuse to obey a Speciall warrant under the Governours hand and Seale, shall bee lyable to such a fine, as the Court of Sessions or Assizes shall adjudge, according to the merritt of the Default.

Slandering persons acting in public capacity.

That whosoever shall Reproach or Defame any Person or Persons, who have or shall Act in any publique Imployment, either in Court or otherwise or shall villifie their proceedings who serve the publique in this Goverment by Authority under his Royall Highnes the Duke of Yorke, or whosoever hereafter shall any wayes Detract or speake against any of the Deputies signing the address, to his Royall Highnes, at the generall meeting att Hempsteed, they shall bee presented, to the next Court of Sessions, and if the Justices shall see Cause they shall from thence bee bound over, to the assizes their to Answer for the Slander, upon plaint or Information.

Clause defining marriageable age, construed.

Whereas in the Amendments or the Lawes formerly sett forth under the head (Marriage) It is said, that all persons are to bee accompted of fitt age to marry, when the man hath attained to the age of 21 and the woman of 18 yeares, itt is to bee understood, of such persons onely as are under guardianshipp, and itt is not in any wayes to take of the naturall bounds of Duty and obligation which Children owe to their parents.

Payment of jurors.

That the payment of Jurymen, shall bee by abatements in their Rates in the townes where they Inhabite which upon Certificate of their service from the Clarks of the Courts of Assizes or Sessions, shall bee allowed them by the Constable.

Testimony of Indians to be received in certain cases.

Whereas divers Complaints have bene made that notwithstanding, the penaltyes in the law sett forth severall persons do presume to sell liquors to the Indians whereby oftentimes greate Disorders are Committed, but what is done by them in that kinde is acted so privately that seldome any other proof thereof can bee made then by some of the Indians themselves, It is therefore ordered that although the testimony of Hethens against Christians may not altogether bee allowed, yet when it meets with other apparant circumstances, such as may bee sufficient to Convince a Jury, in such cases

the Indian Testimonyes, shall bee admitted as good proofes against the persons accused.

Grants and patents, to be confirmed and renewed.

The Court haveing taken notice of the defects and failings of both townes and persons in perticuler of not bringing in their grants or pattents to Receive a Confirmacon of them, or not comeing to take out new grants where they are defective or where there are none at all, according to former directions in the law, As also takeing itt into their serious Consideracons that severall townes and persons within this Goverment as well English as Dutch do hould their Lands and houses upon the Conditions of being Subjects to the States of the united Belgicke Provinces, which is contrary to the Allegiance due to his Majestie, they do therefore order that all grants or pattents whatsoever formerly made shall bee brought in to bee confirmed, or Renewed by Authority of his Royall Highnes the Duke of Yorke, and all such as have not pattents, shall likewise bee Supplied therewith, by the first day of Aprill next after the date hereof, after which tyme, neither Towne or private person whether English or Dutch, shall have liberty to plead any such old grants pattents or Deeds of purchase in Law, but they shall be looked upon as invalid to all intents and purposes.

By order of the Governour
and Court of Assizes,
MATTHIAS NICOLLS Secr.

ORDERS made and Confirmed at the Generall Court of Assizes held in New Yorke begining on the 2nd and ending on the the 7th Day of October in the 24th yeare of his Majesties Reigne, Anno Domini 1672.

Charges for hues and cries, how to be borne.

1st. Whereas great Abuse hath been practized in the Goverment by private persons prosecuting their Servants with Hue and Cryes at the publick Charge, the Gayne whereof redounds only to themselves, It is from henceforth Ordered That the Charges of all Hue & Cryes shall bee borne by the respective person concerned; for the better securing whereof Caution is to bee given by those who take them out and prosecute them unless in Cases of Criminalls, or upon Capitall Crimes where all Officers and others are obliged to use their Endeavour to secure them to bee brought to condigne punishment, which is to bee bourne at the publick Charge, if the person offending hath not wherewith to make Satisfaction.

Premiums for killing wolves, reduced.

2. Whereas it hath been taken into Consideration how great Abatement there is in the Rates of severall Townes upon the Account of Wolves discounted with the Constables, within whose Lymitts they are killed, so that the Summe to be collected doth not Answer the Expectation of the publick Charge, It is Ordered, that the Summe of Twenty five Shillings lately given for a Wolves Head shall be reduced to twenty Shillings as formerly, and for Whelps proportionably, and that for the time to come for all Wolves which shall be killd within the Bounds of any Towne upon Long Island and parts adjacent, the one half of the Charge shall bee borne by the Towne, and tother by the Publick; It is also Ordered, That each Towne bee obliged for the preservacon of their Stock and Cattle to make and maintain Wolve pitts which are to bee directed by the respective Officers of the Townes to which they do belong.

Payment of same.

Towns to maintain wolf pits.

Strangers travelling without passports, liable to arrest.

3. Whereas frequent Complaints have been made of Servants who runn away from their Masters into other Goverments, for want of due Care and Examinacon of them by the Magistrates or Officers of the Townes through which they pass, It is ordered, that if hereafter any Stranger or person unknown shall come to, or travill through any Towne or place within this Goverment without a Pass port or Certificate from whence hee came and whither he is bound, shall bee lyable to bee Seized upon by any Officer of the Towne or Place unto which hee comes, or through which he shall travill, there to bee Secured untill hee can Cleare himselfe to bee a free Man, and shall defray the Charges of his Detention there, by his worke or Labour (if not otherwise able to give Satisfaction) in the best way and Manner he shall bee found capable.

4. Vpon its being represented to this Court that notwithstanding the positive Law and y^{e} Severall Orders of Assizes

and otherwise That English Weights and Measures shall bee only used in these his Royall Highness Territoryes, which hath hitherto been respited for want of Measures for Liquids and due Standards, It is Ordered that the practice thereof bee noe longer delayed but the same putt in Execution by the 25th Day of March next under the penalty in the Law prescribed, or what shall further bee adjudged by the Governour and his Councell. English weights and measures, to be used.

5. It is likewise Ordered, In regard of the great Inconvenience and Decay of Feed for Horses and Cattle in the Woods by the increase of the Brush or Under wood, which is suffred to grow up without any care taken to subdue the same, That four Dayes be appointed once every yeare for all the Inhabitants of the Townes upon Long Island and Precincts, from the Age of 16 to 60 (except those exempted by the Law to go into the Woods to cutt the said Brush or Under wood) the time to bee at the discretion of the Officers of each Towne, and whosoever shall faile therein, each particular person shall pay for every dayes default the value of five Shillings. Four days in each year, to be appointed for inhabitants to cut underbrush. Punishment for failure therein.

6. That the Boundaryes of Townes be attended as the Law and their respective Patents doth direct, and that the Perambulacon bee made accordingly, in which if any Defectibility shall appear at either of the Courts of Sessions to bee held in the Month of June next, the Towne soe failing shall forfeite the Sume of Ten pounds to the Publick. Town bounds, to be attended in accordance with directions.

7. That the Lawes of the Goverment be duely observed as to parochiall Churches, and that although divers persons may bee of Different Judgments, yett all shall contribute to the Minister Establisht and allowed of, which is noe way judged to bee an Infringment of the Liberty of Conscience, to the which they may pretend. Laws as to parochial churches, to be observed.

8. That forasmuch as many and great Complaints have been made against Hogg Stealers, as also against Stealers of Boats, Canooes, and their Appertenances, notwithstanding the strictness of the Lawes to the contrary, and Orders to to reinforce the same, in the which divers having been found guilty, and have past the Censure of the Law, for a greater Terror to any Person, who shall for the future attempt to doe the like, It is Ordered that the person soe offending and convicted for the Same, shall for the first Offence besides a fine to be imposed by the Court receive the Corporall punishment of haveing one of his Ears cutt off to bee an Example to all others, and for the next receive some more severe punishment, as the Court shall direct or Judge meet. Punishment for larceny of swine, boats and canoes.

9. That the High Sheriffs upon Long Island, Constables, and Clarkes of Sessions who have not yet brought in their Accompts to bee audited and allowed of do without further delay performe the same by the time wherein the next Court of Sessions is to bee held in the Respective Ridings to which they doe belong unto some Persons then to bee appointed to receive the same under the penalty in the Law sett forth, or such farther Mulct as shall be adjudged by the Governour and his Councell. Accounts of high sheriffs, constables and clerks of sessions, to be brought in for audit.

10. Whereas upon the extraordinary Occation of Re——

Contributions for fort in New York, how charge for collecting and transmitting to be borne.

tion of the forte in the Citty of New Yorke, the which as recommended from the Governour, every Towne and Corporation within this Province, as also particular persons have by their free Consents and Subscriptions contributed towards the same, the collection whereof in the severall Townes in Country pay, by other then by themselves will bee found both inconvenient, troublesome, and of soe great Charge that it will not answer the End prescribed, the which having by most been thitherto soe well begunn and prosecuted, that it may have a happy Conclusion, It is thought fitt and ordered, That the Charge of Collecting and transmitting the Contribution aforesaid to this City or the ferry shall bee borne by each respective Towne or distinct Person who hath subscribed the same, and that the payment thereof bee made accordingly before the feast of Christmas next.

When payment to be made.

Prohibition as to transportation of grain, repealed.

11. Whereas severall Applications have been made as well to his Honour the Governour as unto this Court, some representing the Convenience, others the Inconvenience of continuing the Prohibicon of the Exportacon of wheat in Grayne or Meale, the time limited for the same being now expired, upon due Consideration had hereupon, It is Ordered, That the Prohibition for the Transportation of Corne shall bee repealed, And it shall and may bee Lawfull for any man to transport Wheat in Grayne or Meale from any part of this Goverment to Boston or any other place, as long as the price currant of good Merchantable winter Wheat shall bee there 4*s*. 6*d*. and good Summer Wheat 4*s*. the Bushell or above in Silver, but that none presume to sell it abroad under that price, upon the penalty of forfeiture of the vallue of what shall bee soe disposed of; And if any Strangers shall come to buy Corne, the same shall not bee sold unto them under 4*s*. per Bushell or 3*s*. 6*d*. in Silver or Goods Equivalent under like penalty as before, And that this Order bee in force for the space of one yeare, untill the Convenience or Inconvenience thereof shall appeare.

Rates per bushel for sale of wheat.

Value of certain coins.

12. Whereas It is thought expedient that a certaine Regulation should bee made upon the Silver Coyne which passeth to and fro in this Goverment by the Certainty of its vallue, It is Ordered, that a Boston Shilling shall pass for one Shilling, and a good piece of Eight of Spanish Coyne whether of Mexico, Sevill, or a pillar piece shall be vallued and goe for six Shillings in any payment either for Debt and Demands or purchasing of Goods and Merchandize between Man and Man.

By Order of the Governour
and Court of Assizes.
MATTHIAS NICOLLS Secr.

ORDERS made at the Generall Court of Assizes held in New Yorke, beginning on the 6th and ending on the 13th day of October in the 27th yeare of his Majesties Reigne Anno Domini 1675.

Vpon consideration of the Mischief that too frequently happens by carrying Liquors and goods to trade with the Indians at their Plantations, where in Case of Disorders or Abuses small reliefe can bee expected amongst them; It is ordered, that throughout the Goverment there bee noe Trading upon any Account with the Indians at their Plantations. *No trading with Indians at their plantations.*

That the Law bee likewise observed which prohibits selling strong Liquors to the Indians in Yorkshire upon Long Island and Dependences. *Law prohibiting sale of liquors to them, to be observed.*

And that pursuant to the Law, the Constables of the severall Townes take care noe Powder or Lead bee sold to the Indians but by them as directed, or by their consent. *Sale of powder and lead.*

The Proclamation sett forth by the Governour about Block Houses &c. being approved of, Its Ordered strictly to bee observed. *Block-houses, &c.*

Vpon a Proposall whether it will not bee convenient at this juncture of time of the Indians Disturbance to the Eastward, to bring all Canooes on the North side of Long Island to this place, or to have them all destroyed to prevent any Entercourse with the Indians on the Maine and our Indians or that these Canoes bee brought to the next Townes, and secured by the Officers; Its Resolved That all Canooes whatsoever belonging to Christians or Indians on the north side of Long Island to the East of Hell-gate shall within three Dayes after the publication hereof bee brought to the next Towne and delivered into the Constables Custody to bee laid up and secured by them neare their Block Houses, And that whatever Canooe shall bee found upon the Sound after that time bee destroyed. *Canoes on north side of Long Island, to be delivered to constables.*

That the Indians at Mr. John Pells on Anne Hooks Neck bee ordered to remove within a fortnight to their Usuall Winter Quarters within Hell-gate upon this Island during which time Loaden Canooes which shall have Certificates from the Magistrates of the Place from whence they come expressing whether they are goeing shall bee permitted quietly to passe along the Shore, except out of the Government, which in noe case is to bee allowed. *Indians at certain place, to go to their winter quarters.*

It being taken into Consideration whether it bee not proper to have English Weights and Measures to bee used according to the Law; It is Ordered that in three months after the publication thereof, the same shall bee putt in practice in this City, Long Island, and parts adjacent; and in six months in all other parts throughout the Goverment: And that whosoever shall after that time presume to use any other Weights or Measures, shall forfeit all that they shall soe sell; and *English weights and measures, to be used.* *Punishment for using other weights and measures.*

bee lyable to such further punishment for Contempt as the Case shall require.

Continuance of prohibition for exporting corn and flour.

The time of the Proclamations prohibiting the Exportation of Corne, and also that of floure &c. being expired, the same being taken into consideration, and the Present Scarcity, It is Ordered, that the Prohibitions for the Exporting of Corne or floure doe still continue in force for the Terme of six Months after the Date hereof.

Rates for horses.

The payment in the Rates for Horses and Horse kinde being recommended from the Towne of Southampton, and other Townes at the East end of Long Island to bee considered of whether not too high, It being soe much above the present value; Ordered that the Rates doe continue as they now are:

Forfeiture of unmarked horses.

And that all persons who have Horses upon Long Island doe within the space of six months prove their Horses before the Constable and Overseers, or Chiefe Officers of the respective Townes to which they doe belong, and such as shall be found unmarkt according to Law shall bee forfeited, the one halfe to his Royall Highnesse, the other halfe to the Towne to

Before whom to be marked.

which they shall bee brought: And that noe person presume to marke any Horse or Colt, but before the Constable and Overseers, or Chiefe Officer of the Place.

Number of mares to be kept.

That all Persons upon Long Island who have Estates from the value of 20*l.* to 100*l.* may keep one Breeding Mare, and noe more; And soe proportionably for every 100*l.* one. But may have as many working Geldings or Horses of Size according to Law, as he shall have Occation of, and double the number in the woods.

And horses.

That all Persons who are single, though but of 20*l.* Estate may keep one Gelding or Horse at home, and in the Woods proportionably.

Gaugers and tappers of oil.

Upon Complaint of the Great Abuse at the East end of Long Island in their Oyle Cask &c: It is Ordered that there bee a Sworne Gager and Tapper of Oyle in the respective Townes

Oil casks not to be made without consent of town officers.

where the Whaling Design is followed. And upon the Peticon and Complaint of severall Coopers in those parts concerning the making of Oyle Cask, and great deceipt used by Stranger

Inspection of casks and oil.

Coopers, It is likewise Ordered that noe Cooper shall bee admitted to make Caske without the Consent of the Magistrates and Officers of the respective Townes, and that the Sworne Gagers and Packers chosen and authorized according to Law, shall have the same Inspection of Oyle Cask, and viewing of Oyle, as for Beefe, Porke &c: and to have the same Allowance; and the Defaulters to incurr the like Penalty.

How many gallons casks to contain.

The Oyle Cask or Barrells are to containe thirty-one Gallons and a halfe.

Each town to choose gauger and packer.

And that every Towne whom it doth or may concerne (if not now already provided) doe forthwith make a fitt Choice of a Gager and Packer to officiate as before according to Law: In Default whereof to answer it at their Perills.

Rates for maintenance of ministry in certain towns.

The Church Affaires being taken into Consideration, and particularly the Maintenance of the Ministry, It is Ordered, that towards the Maintenance of the Ministry, besides the Usuall Countrey Rate, there shall bee a Double Rate levyed

upon all those Townes that have not already a sufficient Maintenance for a Minister.

Upon Proposall of having a fayre and Markett in or neare this City, It is Ordered, That after this Season, there shall yearely bee kept a fayre and Markett at Breucklyn neare the ferry, for all Grayne, Cattle, or other Produce of the Countrey, to bee held the first Munday, Tuesday, and Wednesday in November; and in the City of New Yorke, the Thursday, Friday and Saturday following. Fair and market at Brooklyn and New York.

Ordered, That in case there should happen a Warr with the Indyans in this Goverment (which God forbidd) for the better carrying on of the same one or more Rates shall be Levyed, according as there shall bee Occation, An accompt whereof to bee given to the following Court of Assizes. Rates in cases of Indian wars.

Ordered, That in all Cases, the Magistrates through the whole Goverment are required to doe Justice to the Indians as well as Christians. Magistrates to do justice to Indians.

That by reason of the Separation by Water, Staten Island shall have a Jurisdiction of itselfe; and to have noe farther dependance on the Courts of Long Island, nor on their Militia. Staten Island to have a jurisdiction of itself.

By Order of the Generall Court of Assizes,

MATTHIAS NICOLLS, Secr.

This writing as above, is a true copy of the original, examined and compared by me,

ELISHA MULFORD, *Town Clerk.*

Easthampton, 29th July, 1798.

CHARTER AND LAWS

OF THE

PROVINCE OF PENNSYLVANIA.

1682–1700.

Arms of Penn.

CHARTER

OF THE

PROVINCE OF PENNSYLVANIA.

CHARLES THE SECOND, BY THE GRACE of god, King of England, Scotland, France and Ireland, defender of the faith, &c., To all to whome these presents shall come greeting. Whereas our Trustie and well beloved Subiect, William Penn, Esquire, sonn and heire of Sir William Penn, deceased, out of a commendable desire to enlarge our English Empire, and promote such vsefull comodities as may bee of benefitt to vs and our Dominions, as alsoe to reduce the Savage Natives by gentle and iust manners to the love of civill Societie and Christian Religion hath humbley besought leave of vs to transport an ample Colonie vnto a certaine Countrey hereinafter described in the partes of America not yet cultivated and planted. And hath likewise humbley besought our Royall Maiestie to give, grant, and confirme all the said Countrey with certaine priviledges and Jurisdiccons requisite for the good Government and safetie of the said Countrey and Colonie, to him and his heires forever. KNOWE yee, therefore, that wee, favouring the petition and good purpose of the said William Penn, and haveing regard to the memorie and meritts of his late father, in divers services, and perticulerly to his Conduct, courage and discretion vnder our dearest brother, James, Duke of yorke, in that signall Battell and victorie, fought and obteyned against the Dutch fleete, comanded by the Herr Van Obdam, in the yeare One thousand six hundred sixtie-five, In consideration thereof of Our special grace, certaine knowledge and meere motion, Have Given and granted, and by this Our present Charter, for vs, Our heires and Successors, Doe give and grant vnto the said William Penn, his heires and assignes All that Tract or parte of land in America, with all the Islands therein conteyned, as the same is bounded on the East by Delaware River, from twelve miles distance, Northwarde of New Castle Towne vnto the three and fortieth degree of Northerne Latitude if the said River doeth extend soe farre North-

Preamble.

Grant of land.

Boundaries.

* See with this volume, in pocket, a *fac simile* of this Charter, now remaining on file in the office of the Secretary of the Commonwealth, and see in Appendix proclamation declaring charter in force in Pennsylvania.

wards; But if the said River shall not extend soe farre Northward, then by the said River soe farr as it doth extend, and from the head of the said River the Easterne Bounds are to bee determined by a Meridian Line, to bee drawne from the head of the said River vnto the said three and fortieth degree, The said lands to extend westwards, five degrees in longitude, to bee computed from the said Eastern Bounds, and the said lands to bee bounded on the North, by the beginning of the three and fortieth degree of Northern Latitude, and on the South, by a Circle drawne at twelve miles, distance from New Castle Northwards, and Westwards vnto the begining of the fortieth degree of Northerne Latitude; and then by a streight Line westwards, to the Limitt of Longitude above menconed. Wee doe also give and grant vnto the said William Penn, his heires and assignes, the free and vndisturbed vse, and continuance in and passage into and out of all and singuler Ports, harbours, Bayes, waters, Rivers, Isles and Inletts, belonging vnto or leading to and from the Countrey, or Islands aforesaid; And all the soyle, lands, feilds, woods, vnderwoods, Mountaines, hills, fenns, Isles, Lakes, Rivers, waters, Rivuletts, Bays and Inletts, scituate or being within or belonging vnto the Limitts and Bounds aforesaid, togeather with the fishing of all sortes of fish, whales, Sturgeons, and all Royall and other fishes in the sea, Bayes, Inletts, waters or Rivers, within the premises, and the fish therein taken, And alsoe all veines, Mines and Quarries, as well discovered as not discovered, of Gold, Silver, Gemms and pretious Stones, and all other whatsoever, bee it stones, Metalls, or of any other thing or matter whatsoever, found or to bee found within the Countrey, Isles, or Limitts aforesaid; and him the said William Penn, his heires and Assignes, Wee do, by this our Royall Charter, for vs, our heires and Successors, make, Create and Constitute the true and absolute Proprietaries of the Countrey aforesaid, and of all other, the premisses, saving alwayes to vs, Our heires and Successors, the faith and allegiance of the said William Penn, his heires and assignes, and of all other, the proprietaries, Tenants and Inhabitants that are, or shall be within the Territories and Precincts aforesaid; and Saving also vnto vs, our heires and Successors, the Sovreignity of the aforesaid Countrey, TO HAVE, hold, possesse and enjoy the said Tract of land, Countrey, Isles, Inletts and other the premisses, vnto the said William Penn, his heires and assignes, To the only proper vse and behoofe of the said William Penn, his heires and assignes forever. To bee holden of vs, our heires and Successors, Kings of England, as of our Castle of Windsor, in our County of Berks, in free and comon Socage by fealty only for all services, and not in Capite or by Knights service, Yeelding and paying therefore to vs, our heires and Successors, two beaver Skins to bee delivered att our said Castle of Windsor, on the first day of Januarie, in every yeare; and also the fifth parte of all Gold and Silver Oare, which shall from time to time happen to be found within the Limitts aforesaid, cleare of all Charges, and of our further grace, certaine knowledge and meere mocon, wee have

Use of waters, &c.

William Penn, his heirs and assigns, made absolute proprietaries.

How grant to be held.

Payment therefor.

thought fitt to Erect, and wee doe hereby erect the aforesaid Countrey and Islands, into a Province and Seigniorie, and doe call itt Pensilvania, and soe from henceforth wee will have itt called, And forasmuch as wee have hereby made and ordeyned the aforesaid William Penn, his heires and assignes, the true and absolute Proprietaries of all the Lands and Dominions aforesaid. Know yee therefore, that wee reposing speciall trust and Confidence in the fidelitie, wisdome, Justice, and provident circumspeccon of the said William Penn, for vs, our heires and successors, Doe grant free, full and absolute power, by vertue of these presents to him and his heires, and to his and their Deputies, and Lieutenants, for the good and happy government of the said Countrey, to ordeyne, make, Enact and vnder his and their Seales to publish any Lawes whatsoever, for the raising of money for the publick vse of the said province, or for any other End apperteyning either vnto the publick state, peace, or safety of the said Countrey, or vnto the private vtility of perticular persons, according vnto their best discretions, by and with the advice, assent and approbacon of the freemen of the said Countrey, or the greater parte of them, or of their Delegates or Deputies, whom for the Enacting of the said Lawes, when, and as often as need shall require. Wee will, that the said William Penn, and his heires, shall assemble in such sort and forme as to him and them shall seeme best, and the same Lawes duely to execute vnto, and vpon all people within the the said Countrey and limitts thereof; And wee doe likewise give and grant vnto the said William Penn, and his heires, and to his and their Deputies and Lieutenants, such power and authoritie to appoint and establish any Judges, and Justices, Magistrates and Officers whatsoever, for what Causes soever, for the probates of will and for the granting of Administracons within the precincts aforesaid, and with what power soever, and in such forme as to the said William Penn, or his heires, shall seeme most convenient. Alsoe, to remitt, release, pardon and abolish, whether before Judgement or after, all Crimes and Offences, whatsoever comitted within the said Countrey, against the said Lawes, Treason and wilfull and malicious Murder onely excepted; and in those Cases, to Grant Reprieves vntill Our pleasure may bee knowne therein, and to doe all and every other thing and things which vnto the compleate establishment of Justice vnto Courts and Tribunals, formes of Judicature and manner of proceedings doe belong, altho' in these presents expresse mencon bee not made thereof; and by Judges by them delegated to award processe, hold please and determine in all the said Courts and Tribunalls, all accons, Suits and Causes whatsoever, as well Criminall as Civill, personall, reall and mixt; which Lawes soe as aforesaid, to bee published, Our pleasure is, and soe wee enioyne, require and Comand shall bee most absolute and avaylable in law, and that all the Leige people and subiects of vs, our heires and successors, doe observe and keepe the same inviolable in these partes, soe farr as they concerne them, vnder the paine therein expressed, or to bee expressed: Provided, Nevertheles, that the said

Erected into a province.

Name.

Power to make laws.

And execute same.

Power to appoint judges and other officers.

Grant pardons and reprieves.

Award process, and try causes.

Laws to be observed.

To be consonant to reason, and agreeable to laws of England.

Reservation.

Lawes bee consonant to reason, and bee not repugnant or contrarie, but as neare as conveniently may bee agreeable to the Lawes, Statutes and rights of this our Kingdome of England, And Saveing and reserving to vs, Our heires and Sucoessors, the receiving, heareing and determining of the Appeale and Appeales, of all or any person or persons, of, in or belonging to the Territories aforesaid, or touching any Judgement to bee there made or given. And forasmuch as in the Government of soe great a Countrey, sudden Accidents doe often happen, wherevnto itt will be necessarie to apply a remedie before the freeholders of the said Province, or their Delegates or Deputies can bee assembled to the makeing of Lawes, neither will itt be convenient that instantly vpon every such emergent occasion, soe greate a multitude should be called together. Therefore, for the better Government of the said Countrey, wee will, and Ordeyne, and by these presents for vs, our heires and successors, Doe grant vnto the said William Penn, and his heires, by themselves or by their Magistrates and Officers, in that behalfe, duely to bee ordeyned as aforesaid, to make and constitute, fitt and wholesome Ordinances from time to time within the said Country, to bee kept and observed, as well for the preservacon of the peace, as for the better government of the people there inhabiting, and publickly to notifie the same, to all Persons whome the same doeth or any way may concerne, which Ordinances our will and pleasure is, shall be observed inviolably within the said Province, vnder paines therein to bee expressed, soe as the said ordinances bee consonant to reason and bee not repugnant nor contrary, but soe farre as conveniently may bee agreeable with the Lawes of our Kingdome of England, and so as the said ordinances be not extended in any sort to bind, charge or take away the right or Interest of any person or persons, for or in their life, members, freehold, goods or Chattells; And our further will and pleasure is, that the Lawes for regulateing and governing of Propertie, within the said Province, as well for the descent and enioyment of lands, as likewise for the enioyment and succession of goods and Chattells, and likewise as to felonies, shall be and continue the same as they shall bee for the time being, by the general course of the Law in our Kingdome of England, vntill the said Lawes shall be altered by the said William Penn, his heires or assignes, and by the freemen of the said Province, their Delegates or Deputies, or the greater part of them. And to the End the said William Penn, or heires, or other, the Planters, Owners or Inhabitants of the said Province, may not att any time hereafter, by misconstrucon of the powers aforesaid, through inadvertiencie or designe, depart from that faith and due allegiance which by the Lawes of this our Realme of England, they and all our subiects, in our Dominions and Territories, always owe vnto vs, Our heires and successors, by colour of any extent or largenesse of powers hereby given, or pretended to bee given, or by force or colour of any lawes hereafter to bee made in the said Province, by vertue of any such powers. Our further will and pleasure is, that a transcript

Ordinances for preservation of peace and government of people.

Laws for governing property, descent of lands, &c.

or Duplicate of all lawes which shall bee soe as aforesaid, made and published within the said province, shall within five yeares after the makeing thereof, be transmitted and delivered to the privy Councell, for the time being, of vs, our heires and successors; And if any of the said Lawes within the space of six months, after that they shall be soe transmitted and delivered, bee declared by vs, our heires or successors, in our or their privy Councell, inconsistent with the sovereignety or lawfull prerogative of vs, or heirs or successors, or contrary to the faith and allegiance due by the legall Government of this Realme, from the said William Penn, or his heires, or of the Planters and Inhabitants of the said province; and that therevpon any of the said Lawes shall bee adiudged and declared to bee void by vs, our heires or successors, vnder our or their Privy Seale, that then, and from thenceforth such Lawes concerning which such Judgement and declaracon shall be made, shall become voyd, otherwise the said lawes soe transmitted, shall remaine and stand in full force according to the true intent and meaneing thereof. Furthermore, that this new Colony may the more happily increase, by the multitude of people resorting thither; therefore, wee, for vs, our heires and successors, do give and grant by these presents, power, licence and libertie vnto all the liege people and subiects, both present and future of vs, our heires and successors, excepting those who shall bee specially forbidden, to transport themselves and families vnto the said Countrey, with such convenient shipping, as by the lawes of this, our kingdome of England, they ought to vse with fitting provisions paying only the customes therefore due, and there to settle themselves, dwell and inhabitt and plant for the publick and their owne private advantage: and furthermore, that our subiects may bee the rather encouraged to vndertake this expedicon with ready and cheerful mindes. Know yee, that wee Our especial grace, certaine knowledge and meere mocon, Doe Give and Grant by vertue of these presents, as well vnto the said William Penn and his heires, as to all others who shall from time to time repaire vnto the said Countrey, with a purpose to inhabitt there, or to trade with the Natives of the said Countrey, full license to lade and freight in any ports, whatsoever of vs, our heires and Successors, according to the Lawes, made, or to be made within ouer kingdome of England, and into the said Countrey, by them, their servants or assignes, to transport all and singuler theire Wares, goods and Merchandizes, as likewise, all sorts of graine whatsoever, and all other things whatsoever necessary for food or cloathing, not phibited by the Lawes and Statutes of our kingdomes and Dominions, to be carryed out of the said kingdomes without any Lett or Molestacon of vs, our heires and successors, or of any the officers of vs, our heires and successors, (saveing) alwayes to vs, our heires and successors, the legall impossicons, customes, and other Duties and payments for the said Wares and Merchandize, by any law or statute due or to be due to vs, our heires and successors. AND WEE DOE further for vs, our heires and Successors, Give and grant

Duplicate of laws, to be transmitted to privy council.

To be void, if disapproved of.

License to emigrate.

And transport merchandise.

Power to erect counties, incorporate towns, &c.

vnto the said William Penn, his heires and assignes, free and absolute power to Divide the said Countrey, and Islands, into Townes, Hundreds and Counties, and to erect and incorporate Townes into Borroughs, and Borroughs into Citties, and to make and Constitute ffaires and Markets therein, with all other convenient priviledges and imunities according to the meritt of the inhabitants and the ffittnes of the places; and to doe all and every other thing and things touching .the premisses which to him or them shall seeme requisite, and meet, albeit they be such as of their owne nature might otherwise require a more especiall comandment and Warrant, then in these presents is expressed. **We Will alsoe**, and by these presents for vs, our heires and successors, Wee doe Give and grant licence by this our Charter, vnto the said William Penn, his heires and assignes, and to all the inhabitants and dwellers in the pvince aforesaid, both present, and to come, to import or vnlade by themselves or theire Servants, ffactors or assignes, all merchandizes and goods whatsoever, that shall arise of the fruites and comodities of the said province, either by Land or Sea, into any of the ports of vs, our heires and Successors, in our kingdome of England, and not into any other countrey whatsoever. And Wee give him full power to dispose of the said goods in the said ports, and if need bee, within one yeare next after the vnladeing of the same, to Lade the said Merchandizes and goods againe into the same or other shipps, and to export the same into any other Countreys, either of our Dominions or fforreigne, according to Lawe: PROVIDED alwayes, that they pay such customes and imposicons, subsidies and duties for the same to vs, our heires and successors, as the rest of our subiects of our kingdome of England, for the time being shall be bound to pay, And doe observe the Acts of Navigation and other Lawes in that behalfe made. **And furthermore**, of our more ample and especiall grace, certaine knowledge and meere motion, Wee doe, for vs, our heires and successors, Grant vnto the said William Penn, his heires and assignes, full and absolute power and authoritie, to make, erect and constitute within the said province, and the Isles and Isletts aforesaid, such and soe many Seaports, harbours, Creeks, Havens, keyes and other places, for discharge and vnlading of goods, & Merchandize out of the Shipps, boates and other vessells, and Ladeing them in such and soe many places, and with such rights, Jurisdiccons, liberties and privileges vnto the said ports belonging, as to him or them, shall seeme most expedient, and that all and singuler the shipps, boates and other vessells, which shall come for merchandize and trade, vnto the said pvince, or out of the same shall depart, shall be laden or vnladen onely att such ports as shall be erected and constituted by the said William penn, his heires and assignes, any vse, custome or other thing to the contrary notwithstanding: **provided**, that the said William penn and his heires, and the Lieutenants and Governors for the time being, shall admitt and retaine in and about all such ports, havens, Creeks and keyes, all officers and their Deputies, who shall from time to

License to import and export.

Power to establish ports, harbors, &c.

time be appointed for that purpose, by the ffarmers or Commissioners of our customes, for the time being. **And We doe** further appoint and ordaine, and by these presents for vs, our heires and successors, Wee doe grant vnto the said William penn, his heires and assignes, That he the said William penn, his heires and assignes, may from time to time forever, have and enjoy the Customes and Subsidies in the ports, harbours and other Creeks, and places aforesaid, within the pvince aforesaid, payable or due for merchandizes and wares, there to be Laded and vnladed, the said Customes and Subsidies to be reasonably assessed, vpon any occasion by themselves, and the people there as aforesaid, to be assembled to whom wee Give power, by these presents for vs, our heires and Successors, vpon iust cause, and in a due pporcon, to assesse and impose the same, Saveing vnto vs, our heires and Successors, such imposicons and customes as by Act of parliament are and shall be appointed; And it is further our will and pleasure, that the said William penn, his heires and assignes, shall from time to time constitute and appoint an Attorney or Agent, to reside in or neare our Citty of London, who shall make known the place where he shall dwell or may be found, vnto the Clerks of Our privy Counsell, for the time being, or one of them, and shall be ready to appeare in any of our Courts att Westminster, to Answer for any misdemeanors that shall be comitted, or by any wilfull default or neglect pmitted by the said William penn, his heirs or assignes, against our Lawes of Trade or Navigacon, and after it shall be ascertained in any of our said Courts, what damages wee or our heires or successors shall haue Sustained, by such default or neglect, the said William penn, his heires and assignes, shall pay the same within one yeare after such taxacon and demand thereof, from such Attorney, or in case there shall be noe such Attorney, by the space of one yeare, or such attorney shall not make payment of such damages, within the space of one yeare, and answer such other forfeitures and penalties within the said time, as by the Acts of parliament in England, are or shall be pvided, according to the true intent and meaneing of these presents: Then it shall be lawfull for vs, our heiers and Successors, to seize and Resume the government of the said pvince or Countrey, and the same to retain vntil payment shall be made thereof. But notwithstanding any such Seizure or resumption of the government, nothing concerneing the propriety or ownership of any Lands, tenements or other hereditaments, or goods, or chattels of any of the Adventurers, planters or owners, other then the respective offenders there shall be anyway affected or molested thereby: **provided alwayes**, and our will and pleasure is that neither the said William penn, nor his heires, nor any other the inhitants of the said pvince, shall at any time hereafter haue or maintain any correspondence with any other King, pvince or State, or with any of their subiects, who shall then be in warr against vs, our heirs or Successors; Nor shall the said William penn, or his heires, or any other the inhabitants of the said pvince, make warre or doe any act of hos-

Customs and subsidies.

To have an attorney in London.

Payment of damages sustained by default or neglect of proprietary.

Right to resume government for non-payment.

Not to correspond with foreign enemies, or war with friends.

tilitie against any other king, prince or State, or any of their Subiects, who shall then be in league or amity with vs, our heires or Successors. And because in soe remote a Countrey, and scituate neare many Barbarous Nations, the incursions as well of the Savages themselues, as of other enemies, pirates and Robbers, may pbably be feared. Therefore, wee have Given and for vs, our heires and Successors, Doe give power by these presents unto the said William penn, his heires and assignes, by themselues or their Captaines or other, their officers, to levy, muster and traine all sorts of men, of what condicon, or wheresoever borne, in the said pvince of Pensilvania, for the time being, and to make warr and pursue the enemies and Robbers aforesaid, as well by Sea as by Land, yea, even without the Limits of the said pvince, and by God's assistance to vanquish and take them, and being taken, to put them to death by the law of Warr, or to save them att theire pleasure, and to doe all and every other Act and thing, which to the charge and office of a Captaine generall of an Army, belongeth or hath accustomed to belong, as fully and ffreely as any Captaine Generall of an Army, hath ever had the same. **And furthermore**, of our especiall grace and of our certaine knowledg and meere motion, Wee have given and granted, and by these presents for vs, our heires and successors, Doe Give and Grant vnto the said William penn, his heires and assignes, full and absolute power, License and authoritie, That he the said William penn, his heires and assignes, from time to time hereafter forever, att his or theire will and pleasure, may assigne, alien, Grant, demise or infeoffe of the premisses, soe many, and such partes and parcells to him or them, that shall be willing to purchase the same, as they shall thinke ffitt. **To have and to hold** to them, the said person and persons willing to take or purchase, theire heires and assignes, in ffee simple or ffeetaile, or for the terme of life, or liues, or yeares, to be held of the said William penn, his heires or assignes as of the said Seigniory of Windsor, by such services, customes and rents, as shall seeme ffitt to the said William penn, his heires and assignes, and not imediately of vs, our heires and Successors, and to the same person or persons, and to all and every of them, Wee doe give and grant by these presents, for vs, our heires and successors, Licence, authoritie and power, that such person or persons may take the premisses or any parcett thereof, of the aforesaid William penn, his heires or assignes, and the same hold to themselues, their heires and assigns, in what estate of inheritance soever, in ffeesimple or in ffeetaile or otherwise, as to him the said William penn, his heires and assignes, shall seem expedient. The Statute made in the parliament of Edward, sonne of king henry, late king of England, our predecessor, comonly called the Statute Quia emptores terrarum, lately published in our kingdome of England, in any wise notwithstanding, And by these presents Wee give and Grant Licence vnto the said William penn, and his heires, likewise to all and every such person and persons to whom the said William penn, or his heires shall att any time hereafter, grant

Power to levy troops, and war with enemies.

License to dispose of lands.

any estate of inheritance as aforesaid, to erect any parcells of Land within the pvince aforesaid, into Mannors, by and with the License to be first had and obteyned for that purpose vnder the hand and seale of the said William penn, or his heires, and in every of the said Mannors, to haue and to hold a Court Baron, with all thinges whatsoever, which to a Court Baron do belong; and to haue and to hold view of ffrankpledge, for the conservacon of the peace, and the better government of those partes by themselues or their Stewards, or by the Lords for the time being of other Mannors to be deputed when they shall be erected, and in the same to vse all things belonging to view of ffrankpledge; And Wee doe further grant licence and authoritie that every such person and persons, who shall erect any such Mannor or Mannors as aforesaid, shall or may grant all or any parte of his said Lands to any person or persons, in ffee simple or any other estate of inheritance, to be held of the said Mannors respectively, soe as no further tenures shall be created, but that vpon all further and other alienacons thereafter to be made, the said Lands so aliened, shall be held of the same Lord and his heires, of whom the Alienor did then before hold, and by the like rents and services, which were before due and accustomed. **And** further, our pleasure is and by these presents for vs, our heires and Successors, **Wee** doe Covenant and grant to and with the said William penn, and his heires and assignes, That Wee, our heires and Successors, shall att no time hereafter sett or make, or cause to be sett, any impossicon, custome or other taxacon, rate or contribucon whatsoever, in and vpon the dwellers and inhabitants of the aforesaid pvince, for their Lands, tenements, goods or chattels, within the said province, or in and vpon any goods or merchandize within the said pvince, or to be laden or vnladen within the ports or harbours of the said pvince, vnles the same be with the consent of the pprietary, or chiefe Governor and assembly, or by Act of parliament in England. **And Our** pleasure is, and for vs our heires and successors, Wee charge and Comand, that this our Declaracon, shall from henceforward be received, and allowed from time to time in all our Courts, and before all the Judges of vs, our heirs and Successors, for a sufficient and lawful discharge, payment and acquittance, Comanding all and singular the Officers and Ministers of vs, our heirs and Successors, and enioyneing them vpon paine of our high displeasure, that they doe not presume att any time to attempt any thing to the contrary of the premisses, or that they doe in any sort withstand the same, but that they bee att all times aiding and assisting as is fitting vnto the said William penn, and his heires, and to the inhabitants and merchants of the pvince aforesaid, their Servants, Ministers, ffactors and Assignes, in the full vse and function of the beneffitt of this our Charter: **And** our further pleasure is, And Wee doe hereby, for vs, our heires and Successors, charge and require that if any of the inhabitants of the said pvince, to the number of Twenty, shall att any time hereafter be desirous, and shall by any writeing or by any pson deputed for them, sig-

Erect manors, and hold court baron.

View of frank pledge.

Alienations.

Inhabitants not to be taxed without consent of proprietary, &c.

Charter to be received in courts, &c.

Ministers to instruct inhabitants, may reside in province.

nify such their desire to the Bishop of London, that any preacher or preachers to be approved of by the said Bishop, may be sent vnto them for their instruccon, that then such preacher or preachers, shall and may be and reside within the said pvince, without any deniall or molestacon whatsoever; and if pehance it should happen hereafter, any doubts or questions should arise concerneing the true Sence & meaning of any word, clause or Sentence, conteyned in this our present Charter, Wee Will, ordaine and comand, that att all times and in all things such interpretacon be made thereof, and allowed in any of our Courts whatsoever, as shall be adiudged most advantageous and favourable vnto the said William penn, his heires and assignes: **provided** alwayes that no interpretacon be admitted thereof, by which the allegiance due vnto vs, our heires and Successors, may suffer any preiudice or diminucon, **although** expres mencon be not made in these presents, of the true yearly value or certainty of the premisses, or of any parte thereof, or of other Guifts and grants made by vs, our pgenitors or predecessors, vnto the said William penn, or any Statute, Act, ordinance, pvision, pclamacon or restraint, heretofore had, made, published, ordained or pvided, or any other thing, cause or matter whatsoever to the contrary theireof, in any wise notwithstanding. **In Witness** whereof wee haue caused these our Letters to be made patents. **Witness** our selfe at Westminster, the fourth day of March, in the Three and Thirtieth yeare of our Reigne,

Interpretation of charter.

Pigott.

By Writ of privy Seale.

JOHN SHALER, chirer.

xxvij die Janry, 1682, Fir.

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21

THE FRAME OF THE GOVERNMENT

Of the Province of Pennsylvania, in America; together with certain laws in England, by the Governor and divers freemen of the aforesaid Province. To be further explained and confirmed there by the first Provincial Council that shall be held, if they see meet.

The Preface.

When the great and wise God had made the world, of all his creatures it pleased him to choose man his deputy to rule it; and to fit him for so great a charge and trust, he did not only qualify him with skill and power, but with integrity to use them justly. This native goodness was equally his honour and his happiness, and whilst he stood here, all went well; there was no need of coercive or compulsive means; the precept of divine love and truth in his bosom was the guide and keeper of his innocency. But lust prevailing against duty, made a lamentable breach upon it; and the law, that before had no power over him, took place upon him and his disobedient posterity, that such as would not live conformable to the holy law within, should fall under the reproof and correction, of the just law without, in a judicial administration. Preface.

This the apostle teaches us in divers of his epistles. The law (says he) was added because of transgression: In another place, knowing that the law was not made for the righteous man; but for the disobedient and ungodly, for sinners, for unholy and prophane, for murderers, for whoremongers, for them that defile themselves with mankind, and for menstealers, for liars, for perjured persons, &c. But this is not all, he opens and carries the matter of government a little further: Let every soul be subject to the higher powers, for there is no power but of God. The powers that be are ordained of God. whosoever therefore resisteth the power, resisteth the ordinance of God. For rulers are not a terror to good works, but to Evil: wilt thou then not be afraid of the power? Do that which is good, and thou shalt have praise of the same.—— He is the minister of God to thee for good.——Wherefore ye must needs be subject, not only for wrath, but for conscience sake.

*See in Appendix the conditions and concessions agreed upon by William Penn and the adventurers and purchasers in the Province.

Preface.

This settles the divine right of government beyond exception, and that for two ends; first, to terrify evil-doers; secondly, to cherish those that do well; which gives government a life beyond corruption, and makes it as durable in the world, as good men shall be. So that government seems to me a part of religion itself, a thing sacred in its institution and end. For if it does not directly remove the cause, it crushes the effects of evil, and is as such (tho' a lower yet) an emanation of the same Divine Power, that is both author and object of pure religion; the difference lying here, that the one is more free and mental, the other more corporal and compulsive in its operations: but that is only to evil-doers: government itself being otherwise as capable of kindness, goodness and charity, as a more private society. They weekly err, that think there is no other use of government than correction, which is the coarsest part of it: daily experience tells us, that the care and regulation of many other affairs more soft and daily necessary, make up much the greatest part of government; and which must have followed the peopling of the world, had Adam never fell, and will continue among men on earth under the highest attainments they may arrive at, by the coming of the blessed second Adam, the Lord from Heaven. Thus much of government in general, as to its rise and end.

For particular frames and models, it will become me to say little; and comparatively I will say nothing. My reasons are: first, that the age is too nice and difficult for it; there being nothing the wits of men are more busy and divided upon. 'Tis true, they seem to agree in the end, to wit, happiness; but in the means they differ, as to divine, so to this human felicity; and the cause is much the same, not always want of light and knowledge, but want of using them rightly. Men side with their passions against their reason, and their sinister interests have so strong a bias upon their minds, that they lean to them against the good of the things they know.

Secondly, I do not find a model in the world, that time, place, and some singular emergences have not necessarily altered; nor is it easy to frame a civil government, that shall serve all places alike.

Thirdly, I know what is said by the several admirers of monarchy, aristocracy and democracy, which are the rule of one, a few, and many, and are the three common ideas of government, when men discourse on that subject. But I choose to solve the controversy with this small distinction, and it belongs to all three; any government is free to the people under it (whatever be the frame) where the laws rule, and the people are a party to those laws, and more than this is tyranny, oligarchy, and confusion.

But lastly, when all is said, there is hardly one frame of government in the world so ill designed by its first founders, that in good hands would not do well enough; and story tells us, the best in ill ones can do nothing that is great or good; witness the Jewish and Roman states. Governments, like clocks, go from the motion men give them, and as govern-

ments are made and moved by men, so by them they are ruined too. Wherefore governments rather depend upon men, than men upon governments. Let men be good, and the government cannot be bad; if it be ill, they will cure it. But if men be bad, let the government be never so good, they will endeavour to warp and spoil to their turn. Preface.

I know some say, let us have good laws, and no matter for the men that execute them: but let them consider, that though good laws do well, good men do better; for good laws may want good men, and be abolished or invaded by ill men; but good men will never want good laws, nor suffer ill ones. 'Tis true, good laws have some awe upon ill ministers, but that is where they have not power to escape or abolish them, and the people are generally wise and good: but a loose and depraved people (which is to the question) love laws and an administration like themselves. That therefore, which makes a good constitution, must keep it, viz: men of wisdom and virtue, qualities that because they descend not with worldly inheritances, must be carefully propagated by a virtuous education of youth, for which after ages will owe more to the care and prudence of founders, and the successive magistracy, than to their parents for their private patrimonies.

These considerations of the weight of government, and the nice and various opinions about it, made it uneasy to me to think of publishing the ensuing frame and conditional laws, foreseeing both the censures they will meet with from men of differing humours and engagements, and the occasion they may give of discourse beyond my design.

But next to the power of necessity (which is a solicitor that will take no denial) this induced me to a compliance, that we have (with reverence to God, and good conscience to men) to the best of our skill, contrived and composed the FRAME and LAWS of this government, to the great end of all government, viz: to support power in reverence with the people, and to secure the people from the abuse of power; that they may be free by their just obedience, and the magistrates honourable for their just administration: for liberty without obedience is confusion, and obedience without liberty is slavery. To carry this evenness is partly owing to the constitution, and partly to the magistracy; where either of these fail, government will be subject to convulsions; but where both are wanting, it must be totally subverted: then where both meet, the government is like to endure. Which I humbly pray and hope God will please to make the lot of this of Pennsylvania. Amen.

WILLIAM PENN.

The Frame.

TO ALL PEOPLE, to whom these presents shall come. WHEREAS king Charles the second, by his letters patent, under the great seal of England; for the consideration therein mentioned, hath been graciously pleased to give and grant unto me William Penn (by the name of William Penn, Esq

son and heir of Sir William Penn, deceased) and to my heirs and assigns forever, all that tract of land or province, called Pennsylvania, in America, with divers great powers, preheminences, royalties, jurisdictions, and authorities, necessary for the well-being and government thereof: NOW KNOW YE, that for the well-being and government of the said province, and for the encouragement of all the freemen and planters that may be therein concerned, in pursuance of the powers aforementioned, I the said William Penn have declared, granted, and confirmed, and by these presents, for me, my heirs and assigns, do declare, grant and confirm unto all the freemen, planters and adventurers, of, in and to the said province, these liberties, franchises, and properties, to be held, enjoyed and kept by the freemen, planters and inhabitants of the said province of Pennsylvania for ever.

Certain liberties, franchises and properties, granted.

Government, of what to consist.

Imprimis. That the government of this province shall, according to the powers of the patent, consist of the Governor and freemen of the said province, in form of a Provincial Council and General Assembly, by whom all laws shall be made, officers chosen, and publick affairs transacted, as is hereafter respectively declared. That is to say,

Council, election and meeting of.

Second. That the freemen of the said province shall, on the twentieth day of the twelfth-month, which shall be in this present year, one thousand six hundred eighty and two, meet and assemble in some fit place, of which timely notice shall be beforehand given, by the governor or his deputy, and then and there shall choose out of themselves seventy-two persons of most note for their wisdom, virtue and ability, who shall meet on the tenth day of the first month next ensuing, and always be called and act as the Provincial Council of the said province.

Terms of members.

Third. That at the first choice of such Provincial Council, one-third part of the said Provincial Council shall be chosen to serve for three years next ensuing; one-third part for two years then next ensuing, and one-third part for one year then next following such election, and no longer; and that the said third part shall go out accordingly. And on

One third to be chosen annually.

the twentieth day of the twelfth month as aforesaid, yearly for ever afterward, the freemen of the said province shall in like manner meet and assemble together, and then chuse twenty four persons, being one third of the said number, to serve in Provincial Council for three years. It being intended, that one third part of the whole Provincial Council (always consisting and to consist of seventy two persons, as aforesaid) falling off yearly, it shall be yearly supplied by such new yearly elections, as aforesaid; and that no one person shall continue therein longer than three years: and in

Vacancies.

case any member shall decease before the last election during his time, that then at the next election ensuing his decease, another shall be chosen to supply his place for the remaining time he was to have served, and no longer.

Not to be chosen for two terms in succession.

Fourth. That after the first seven years, every one of the said third parts that goeth yearly off, shall be uncapable of being chosen again for one whole year following: that so all

may be fitted for government, and have experience of the care and burden of it.

Fifth. That the Provincial Council in all cases of matters of moment, as their arguing upon bills to be passed into laws, erecting courts of justice, giving judgment upon criminals impeached, and choice of officers, in such manner as is herein after mentioned; not less than two thirds of the whole Provincial Council shall make a quorum; and that the consent and approbation of two thirds of such quorum shall be had in all such cases and matters of moment. And moreover, that in all cases and matters of lesser moment, twenty-four members of the said Provincial Council shall make a quorum, the majority of which twenty-four shall and may always determine in such cases and causes of lesser moment. Quorum.

Sixth. That in this Provincial Council, the governor or his deputy shall or may always preside, and have a treble voice; and the said Provincial Council shall always continue, and sit upon its own adjournments and committees. Presiding officer. Council to always continue.

Seventh. That the governor and Provincial Council shall prepare and propose to the General Assembly hereafter mentioned, all bills which they shall at any time think fit to be passed into laws within the said province; which bills shall be published and affixed to the most noted places in the inhabited parts thereof thirty days before the meeting of the General Assembly, in order to the passing them into laws or rejecting of them, as the General Assembly shall see meet. Bills, preparation and publication of.

Eighth. That the governor and Provincial Council shall take care that all laws, statutes and ordinances, which shall at any time be made within the said province, be duly and diligently executed. Execution of laws.

Ninth. That the governor and Provincial Council shall at all times have the care of the peace and safety of the province, and that nothing be by any person attempted to the subversion of this frame of government. Peace and safety of province.

Tenth. That the governor and Provincial Council shall at all times settle and order the situation of all cities, ports and market towns in every county, modelling therein all public buildings, streets, and market places, and shall appoint all necessary roads and highways in the province. Location of cities, ports, and towns. Roads and highways.

Eleventh. That the governor and Provincial Council shall at all times have power to inspect the management of the publick treasury, and punish those who shall convert any part thereof to any other use, than what hath been agreed upon by the governor, Provincial Council and General Assembly. Management of public treasury.

Twelfth. That the governor and Provincial Council shall erect and order all publick schools, and encourage and reward the authors of useful sciences and laudable inventions in the said province. Schools.

Thirteenth. That for the better management of the powers and trust aforesaid, the Provincial Council shall from time to time divide itself into four distinct and proper committees, for the more easy administration of the affairs of the province, which divides the seventy-two into four eighteens, every one of which eighteens shall consist of six out of each of the three orders or yearly elections, each of which shall have a distinct Council to divide itself into four committees.

Committee of plantations.

Committee of justice and safety.

Committee of trade and treasury.

Committee of manners, education, and arts.

Quorum.

Powers.

President.

Resolutions.

Sittings.

General assembly, election of members of.

Meetings.

Passing of laws.

portion of business, as followeth: first, a committee of plantations, to situate and settle cities, ports, market-towns and high-ways, and to hear and decide all suits and controversies relating to plantations. Secondly, a committee of justice and safety, to secure the peace of the province, and punish the male-administration of those who subvert justice to the prejudice of the publick or private interest. Thirdly, a committee of trade and treasury, who shall regulate all trade and commerce according to law, encourage manufacture and country growth, and defray the publick charge of the province. And fourthly, a committee of manners, education, and arts, that all wicked and scandalous living may be prevented, and that youth may be successively trained up in virtue and useful knowledge and arts: the quorum of each of which committees being six, that is, two out of each of the three orders or yearly elections as aforesaid, making a constant and standing council of twenty-four, which will have the power of the Provincial Council, being the quorum of it, in all cases not excepted in the fifth article; and in the said committees and standing Council of the province, the governor or his deputy shall or may preside as aforesaid; and in the absence of the governor or his deputy, if no one is by either of them appointed, the said committees or Council, shall appoint a president for that time, and not otherwise; and what shall be resolved at such committee, shall be reported to the said Council of the province, and shall be by them resolved and confirmed before the same shall be put in execution; and that these respective committees shall not sit at one and the same time, except in cases of necessity.

Fourteenth. And to the end that all laws prepared by the governor and provincial Council aforesaid, may yet have the more full concurrence of the freemen of the province, it is declared, granted, and confirmed, that at the time and place or places for the choice of a Provincial Council as aforesaid, the said freemen shall yearly choose members to serve in General Assembly as their representatives, not exceeding two hundred persons, who shall yearly meet on the twentieth day of the second month, which shall be in the year one thousand six hundred eighty and three following, in the capital town, or city of the said province, where during eight days the several members may freely confer with one another; and, if any of them see meet, with a committee of the Provincial Council (consisting of three out of each of the four committees aforesaid, being twelve in all) which shall be at that time purposely appointed to receive from any of them proposals for the alteration or amendment of any of the said proposed and promulgated bills; and on the ninth day from their so meeting, the said General Assembly, after reading over the proposed bills by the clerk of the Provincial Council, and the occasion and motives for them being opened by the governor or his deputy, shall give their affirmative or negative, which to them seemeth best, in such manner as hereinafter is expressed. But not less than two thirds shall make a quorum in the passing of laws, and choice of such officers as are by them to be chosen.

Fifteenth. That the laws so prepared and proposed as aforesaid, that are assented to by the General Assembly, shall be enrolled as laws of the province, with this stile: *By the Governor, with the assent and approbation of the freemen in Provincial Council and General Assembly.* Enrollment of laws.

Sixteenth. That for the better establishment of the Government and laws of this province, and to the end there may be an universal satisfaction in the laying of the fundamentals thereof; the General Assembly shall or may for the first year consist of all the freemen of and in said province, and ever after it shall be yearly chosen, as aforesaid; which number of two hundred shall be enlarged as the country shall increase in people, so as it do not exceed five hundred at any time; the appointment and proportioning of which, as also the laying and methodizing of the choice of the Provincial Council and General Assembly in future times, most equally to the divisions of the hundreds and counties, which the country shall hereafter be divided into; shall be in the power of the Provincial Council to propose, and the General Assembly to resolve. Number of members of general assembly. Appointment, proportioning, and choice of council and assembly.

Seventeenth. That the Governor and the Provincial Council shall erect, from time to time, standing courts of justice in such places and number as they shall judge convenient for the good government of the said province. And that the Provincial Council shall, on the thirteenth day of the first month yearly, elect and present to the governor or his deputy, a double number of persons to serve for judges, treasurers, master of rolls, within the said province for the year next ensuing; and the freemen of the said province in the county courts, when they shall be erected, and till then in the General Assembly shall, on the three and twentieth day of the second month yearly, elect and present to the governor or his deputy, a double number of persons to serve for sheriffs, justices of the peace, and coroners, for the year next ensuing; out of which respective elections and presentments, the governor or his deputy shall nominate and commissionate the proper number for each office the third day after the said presentments; or else the first named in such presentment for each office, shall stand and serve for that office the year ensuing. Courts. Judges, treasurers, and masters of rolls. Sheriffs, justices of peace, and coroners.

Eighteenth. But forasmuch as the present condition of the province requires some immediate settlement, and admits not of so quick a revolution of officers; and to the end the said province may, with all convenient speed, be well ordered and settled, I, William Penn, do therefore think fit, to nominate and appoint such persons for judges, treasurers, masters of the rolls, sheriffs, justices of the peace, and coroners, as are most fitly qualified for those employments; to whom I shall make and grant commissions for the said offices respectively, to hold to them to whom the same shall be granted, for so long time as every such person shall well behave himself in the office or place to him respectively granted, and no longer. And upon the decease or displacing of any of the said officers, the succeeding officer or officers shall be chosen as aforesaid. Proprietary to appoint officers.

How long general assembly to continue.

Nineteenth. That the General Assembly shall continue so long as may be needful to impeach criminals fit to be there impeached; to pass bills into laws, that they shall think fit to pass into laws, and till such time as the governor and Provincial Council shall declare, that they have nothing further to propose unto them for their assent and approbation; and that declaration shall be a dismiss to the General Assembly for that time, which General Assembly shall be notwithstanding capable of assembling together, upon the summons of the Provincial Council, at any time during that year, if the said Provincial Council shall see occasion for their so assembling.

Elections of members of council and assembly, to be by ballot.

Also, determination of questions.

Twentieth. That all the elections of members or representatives of the people, to serve in Provincial Council and General Assembly, and all questions to be determinated by both or either of them, that relate to passing of bills into laws, to the choice of officers, to impeachments made by the General Assembly, and judgment of criminals upon such impeachments by the Provincial Council, and to all other cases by them respectively judged of importance, shall be resolved and determined by the ballot; and, unless on sudden and indispensible occasions, no business in Provisional Council or its respective committees, shall be finally determined the same day that it is moved.

No business to be finally determined on day introduced.

Appointment of guardians where governor a minor.

Twenty-first. That at all times, when and so often as it shall happen, that the Governor shall or may be an infant, under the age of one and twenty years, and no guardians or commissioners are appointed in writing by the father of the said infant, or that such guardians or commissioners shall be deceased; that during such minority, the Provincial Council shall, from time to time, as they shall see meet, constitute and appoint guardians or commissioners, not exceeding three; one of which three shall preside as deputy and chief guardian, during such minority, and shall have and execute, with the consent of the other two, all the power of a governor, in all the public affairs and concerns of the said province.

No business to be transacted on Sunday.

Twenty-second. That as often as any day of the month, mentioned in any article of this charter, shall fall upon the first day of the week, commonly called the Lord's day, the business appointed for that day, shall be deferred till next day, unless in case of emergency.

Alteration of charter.

Twenty-third. That no act, law or ordinance whatsoever, shall at any time hereafter be made or done, by the governor of this province, his heirs or assigns, or by the freemen in the Provincial Council or the General Assembly, to alter, change or diminish the form or effect of this charter, or any part or clause thereof, without the consent of the governor, his heirs or assigns, and six parts of seven of the said freemen in Provincial Council, and General Assembly.

Liberties contained in charter, not to be infringed.

And lastly. That I the said William Penn, for myself, my heirs, and assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, that neither I, my heirs nor assigns, shall procure or do any thing or things, whereby the liberties in this charter

contained and expressed, shall be infringed or broken; and if any thing be procured by any person or persons contrary to these premises, it shall be held of no force or effect. In Witness whereof, I the said William Penn have unto this present charter of liberties, set my hand and broad seal, this five and twentieth day of the second month, vulgarly called April, in the year of our Lord, one thousand six hundred and eighty-two.

WILLIAM PENN.

LAWS AGREED UPON IN ENGLAND.

Royal charter, declared and approved.

First. That the charter of liberties, declared, granted and confirmed, the five and twentieth day of the second month, called April, 1682, before divers witnesses by William Penn, governor and chief proprietary of Pennsylvania, to all the freemen and planters of the said province, is hereby declared and approved, and shall be forever held for fundamental, in the government thereof, according to the limitations mentioned in the said charter.

Freemen, defined.

Second. That every Inhabitant in the said province, that is or shall be a purchaser of one hundred acres of land or upwards, his heirs and assigns, and every person who shall have paid his passage, and taken up one hundred acres of land, at one penny an acre, and have cultivated ten acres thereof, and every person that hath been a servant or bondsman, and is free by his service, that shall have taken up his fifty acres of land, and cultivated twenty thereof, and every inhabitant, artificer, or other resident in the said province, that pays scot and lot to the government, shall be deemed and accounted a freeman of the said province; and every such person shall and may be capable of electing or being elected representatives of the people in Provincial Council or General Assembly in the said province.

May elect and be elected representatives of people.

Elections to be free.

Third. That all elections of members or representatives of the people and freemen of the province of Pennsylvania, to serve in Provincial Council or General Assembly, to be held within the said province, shall be free and voluntary; and that the elector that shall receive any reward or gift, in meat, drink, monies or otherwise, shall forfeit his right to elect; and such person as shall, directly or indirectly, give, promise, or bestow any such reward as aforesaid, to be elected, shall forfeit his election, and be thereby incapable to serve as aforesaid. And the Provincial Council and General Assembly shall be the sole judges of the regularity or irregularity of the elections of their own respective members.

Forfeiture of right to elect and election.

Council and assembly, the judges of election of their members.

No moneys to be collected or paid, except in pursuance of law.

Fourth. That no money or goods shall be raised upon, or paid by any of the people of this province, by way of a publick tax, custom or contribution, but by a law for that purpose made; and whosoever shall levy, collect or pay any money or goods contrary thereunto, shall be held a publick

enemy to the province, and a betrayer of the liberties of the people thereof.

Courts to be open, and justice free.

Fifth. That all courts shall be open, and justice shall neither be sold, denied or delayed.

All persons may appear, and plead in person or by friends.

Sixth. That in all courts all persons of all persuasions may freely appear in their own way, and according to their own manner, and there personally plead their own cause themselves, or if unable, by their friends. And the first process shall be the exhibition of the complaint in court,

First process.

Service of summons.

fourteen days before the trial; and that the party complained against may be fitted for the same, he or she shall be summoned no less than ten days before, and a copy of the complaint delivered him or her, at his or her dwelling house. But before the complaint of any person be received, he shall

Oath of justness of cause.

solemnly declare in court, that he believes in his conscience his cause is just.

Pleadings, process and records.

Seventh. That all pleadings, processes, and records in courts, shall be short, and in english, and in an ordinary and plain character, that they may be understood, and justice speedily administered.

Trial by jury.

Eight. That all trials shall be by twelve men, and as near as may be peers, or equals, and of the neighborhood, and men without just exceptiion. In cases of life, there shall be first twenty-four returned by the sheriff for a grand inquest, of whom twelve at least shall find the complaint to be true; and then the twelve men or peers, to be likewise returned

Challenges.

by the sheriff shall have the final judgment. But reasonable challenges shall be always admitted against the said twelve men or any of them.

Fees.

Ninth. That all fees in all cases shall be moderate, and settled by the Provincial Council and General Assembly, and be hung up in a table in every respective court; and whoso ever shall be convicted of taking more, shall pay two-fold, and be dismissed his employment, one moiety of which shall go to the party wronged.

Prisons.

Tenth. That all prisons shall be workhouses for felons, vagrants, and loose and idle persons; whereof one shall be in every county.

Prisoners bailable.

Eleventh. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident, or the presumption great.

Damages for unjust imprisonment or prosecution.

Twelfth. That all persons wrongfully imprisoned or prosecuted at law, shall have double damages against the informer or prosecutor.

Prisons to be free.

Thirteenth. That all prisons shall be free, as to fees, food, and lodging.

Lands and goods, liable for debts.

Fourteenth. That all lands and goods shall be liable to pay debts, except where there is legal issue, and then all the goods, and one third of the land only.

Force of certain wills and writings.

Fifteenth. That all wills and writing attested by two witnesses, shall be of the same force, as to lands as other conveyances, being legally proved within forty days, either within or without the said province.

Sixteenth. That seven years quiet possession shall give

an unquestionable right, except in cases of infants, lunaticks, married women, or persons beyond the seas. Seven years quiet possession, to give unquestionable right.

Seventeenth. That all briberies and extortions whatsoever, shall be severely punished. Briberies and extortions, to be punished.

Eighteenth. That all fines shall be moderate, and saving mens contenements, merchandize or wainage. Fines.

Nineteenth. That all marriages (not forbidden by the law of God, as to nearness of blood and affinity by marriage) shall be encouraged; but the parents or guardians shall be first consulted, and the marriage shall be published before it be solemnized, and it shall be solemnized by taking one another as husband and wife, before credible witnesses, and a certificate of the whole, under the hands of parties and witnesses, shall be brought to the proper register of that county, and shall be registered in his office. Marriages.

Twentieth. And to prevent frauds and vexatious suits within the said province, that all charters, gifts, grants and conveyances of land, (except leases for a year or under) and all bills, bonds, and specialties have five pounds, and not under three months, made in the said province, shall be enrolled or registered in the public enrolment office of the said province within the space of two months next after the making thereof, else to be void in law. And all deeds, grants, and conveyances of land (except as aforesaid) within the said province, and made out of the said province, shall be inrolled or registered as aforesaid, within six months next after the making thereof, and settling and constituting an enrolment office or registry within the said province, else to be void in law against all persons whatsoever. Grants, conveyances, &c., to be enrolled.

Twenty-first. That all defacers or corruptors of charters, gifts, grants, bonds, bills, wills, contracts and conveyances, or that shall deface or falsify any enrolment, registry or record within this province, shall make double satisfaction for the same; half whereof shall go to the party wronged, and they shall be dismissed of all places of trust, and be publickly disgraced as false men. Defacers of charters, grants, &c., to render double satisfaction.

Twenty-second. That there shall be a register for births, marriages, burials, wills, and letters of administration, distinct from the other registry. Registry of births.

Twenty-third. That there shall be a register for all servants, where their names, time, wages, and days of payment, shall be registered. Registry of servants.

Twenty-fourth. That all lands and goods of felons shall be liable to make satisfaction to the party wronged twice the value; and for want of lands or goods, the felons shall be bond-men to work in the common prison or work-house, or otherwise, till the party injured be satisfied. Satisfaction from felons for injuries done.

Twenty-fifth. That the estates of capital offenders, as traitors, and murderers, shall go one third to the next of kin to the sufferer, and the remainder to the next of kin to the criminal. Disposition of estates of capital offenders.

Twenty-sixth. That all witnesses, coming or called to testify their knowledge in or to any matter or thing in any court, or before any lawful authority within the said province, shall there give or deliver in their evidence or testimony, by sol- Testimony of witnesses.

emnly promising to speak the truth, the whole truth, and nothing but the truth, to the matter or thing in question.

Punishment for bearing false witness.

And in case any person so called to evidence, shall be convicted of wilful falsehood, such person shall suffer and undergo such damage or penalty, as the person or persons against whom he or she bore false witness, did or should undergo; and shall also make satisfaction to the party wronged, and be publicly exposed as a false witness, never to be credited in any court, or before any magistrate, in the said province.

No person to enjoy more than one office at same time.

Twenty-seventh. And to the end that all officers chosen to serve within this province, may with more care and diligence answer the trust reposed in them, it is agreed, that no such person shall enjoy more than one publick office at one time.

Children to be taught trades.

Twenty-eighth. That all children within this province of the age of twelve years, shall be tanght some useful trade or skill, to the end none may be idle, but the poor may work to llve, and the rich, if they become poor, may not want.

Usage of servants.

Twenty-ninth. That servants be not kept longer than their time, and such as are careful, be both justly and kindly used in their service, and put in fitting equipage at the expiration thereof, according to custom.

Calumniators and defamers, to be punished.

Thirtieth. That all scandalous and malicious reporters, backbiters, defamers and spreaders of false news, whether against magistrates or private persons, shall be accordingly severely punished, as enemies to the peace and concord of this province.

Patent granted to society of planters, confirmed.

Thirty-first. That for the encouragement of the planters and traders in this province, who are incorporated into a society, the patent granted to them by William Penn, Governor of the said province, is hereby ratified and confirmed.

Thirty-second. * * *

to be the creator, upholder and ruler of the world, and that hold themselves obliged in concience to live peaceably and justly in civil society, shall in no ways be molested or prejudiced for their religious persuasion or practice in matters of faith and worship, nor shall they be compelled at any time to frequent or maintain any religious worship, place or ministry whatever.

The Sabbath to be observed.

Thirty-sixth. That according to the good example of the primitive christians, and for the ease of the creation, every first day of the week, called the Lord's day, people shall abstain from their common daily labour, that they may the better dispose themselves to worship God according to their understandings.

Certain offences, to be severely punished.

Thirty-seventh. That as careless and corrupt administration of justice draws the wrath of God upon magistrates, so the wildness and looseness of the people provoke the indignation of God against a country; therefore, that all such offenses against God, as swearing, cursing, lying, prophane talking, drunkenness, drinking of healths, obscene words, incest, sodomy, rapes, whoredom, fornication, and other uncleanness (not to be repeated.) All treasons, misprisons, murders, duels, felonies, seditions, maims, forcible entries, and other violences, to the persons and estates of the inhabitants within this province: all prizes, stage plays, cards, dice, may-games, masques, revels, bull-baitings, cock-fightings, bear-baitings and the like, which excite the people to rudeness, cruelty, looseness and irreligion, shall be respectively discouraged, and severely punished, according to the appointment of the governor and freemen in Provincial Council and General Assembly, as also all proceedings contrary to these laws, that are not here made expressly penal.

Copy of laws, to be hung in council, &c.

Thirty-eight. That a copy of these laws shall be hung up in the Provincial Council, and in public courts of justice, and that they shall be read yearly, at the opening of every Provincial Council and General Assembly, and courts of justices, and their assent shall be testified by their standing up, after the reading thereof.

Alterations of laws.

Thirty-ninth. That there shall be at no time any alteration of any of these laws, without the consent of the governor, his heirs or assigns, and six parts of seven of the freemen, met in Provincial Council and General Assembly.

Other matters of public concern, referred to governor, council and assembly.

Fortieth. That all other matters and things not herein provided for, which shall and may concern the publick justice, peace or safety of the said province; and the raising and imposing of taxes, customs, duties, or other charges whatsoever, shall be, and are hereby referred to the order, prudence and determination of the governor and freemen in Provincial Council and General Assembly, to be held from time to time in the said province.

Signed and sealed by the Governor and freemen aforesaid, the fifth day of the third month, called May, one thousand six hundred and eighty-two.

Soon after the grant made by the Royal Charter, an Assembly of the province and three lower counties (then called the territories) was called by the Proprietary and Governor, which met at Chester on the 7th day of December, 1682, where the following laws, among others, were passed, to wit:

AN ACT OF UNION,

for Annexing y^e^ Counties of New Castle, Jones's, Whore-Kills als' Deal to y^e^ Province of Pennsilvania, to be as a proper Territory thereunto Belonging.

Preamble.

Forasmuch as all that Tract of Land Lying on y^e^ West side of y^e^ River Delaware, begin'ing from Twelve Miles above New Castle, upon y^e^ said River, Northward, and Extending to y^e^ South Cape, commonly called Cape Henlopen, making the Mouth of y^e^ Bay of Delaware, of Late divided into three Counties, and called by y^e^ names of New Castle, Jones's and Whore-Kills *als* Deal, with their Appurtinences, and y^e^ Jurisdiction & Royalties thereunto belonging, are Granted to William Penn, Proprietary & Govero^r^ of Pennsilvania & his Heirs and Assignes for ever, By James Duke of Yorke & Albany, Earl of Ulster &c; as by two Deeds of Feofment, Dated y^e^ 24^th^ of August, 1682, more at Large appears: And whereas, The Freemen of y^e^ said Counties have by their Deputys humbly besought their Present Proprietary & Governor to Annex y^e^ said Counties to y^e^ Province of Pennsilvania, and to grant unto them y^e^ same Priveledges, and that they may Live under y^e^ same Laws & Government that y^e^ Inhabitants of y^e^ said Province now doe or hereafter shall Enjoy, And since y^e^ Union of two distinct People that are under one Governor is both most desireable in it self & beneficial to y^e^ Publick, & that it cannot be so Cordially & Durably maintained to y^e^ mutual Benefits of each other, as by making them Equally Sharers in Benefits & Priviledges, *Bee itt Enacted by the Proprietary & Governor aforesaid, by & with y^e^ advice & Consent of y^e^ Deputys of the Freemen of y^e^ Province & Countys, afores^d^ in Assembly met*, That

The three counties, annexed to province.

y^e^ Counties of New Castle, Jones's & Whore Kills, *als* Deal, shall be Annexed, & by y^e^ Authority afores^d^ are hereby Annexed unto y^e^ Province of Pennsilvania, as of y^e^ proper Territory thereof, and the People therein shall be Governed by y^e^ same Laws & Enjoy y^e^ same Priviledges, in all Respects as y^e^ Inhabitants of Pennsilvania doe or shall enjoy, from time to time Therein, Any thing in this Law or any other Law, Act or thing in this Province to y^e^ Contrary in anywise Notwithstanding. Given at Chester, *als* Upland, this 7 day of December, 1682, being y^e^ second year of y^e^ Government of William Penn, Proprietary & Governor of Pennsilvania. by the Kings Authorety.

W^m^ PENN.

AN ACT FOR NATURALIZATION.

Whereas, King Charles the second, of England, &c., hath been gratiously pleased, by his letters Patents, under y^e^ great seal of England, dated y^e^ 4 day of y^e^ month, called March, 168$\frac{4}{5}$, to grant unto William Penn, Son and Heir of S^r^ W^m^ Penn, deceased, this Province of Pennsilvania, according to the Bounds therein exprest, with Powers to make Laws by and with the Consent of the freemen of the said Province, not repugnant to their Faith & Allegiance, and y^e^ loyal goverm't of y^e^ said Realme: And It having also pleased James Duke of York & Albany, &c., to release his Right & Claime thereunto, to the said William Penn, whereby he, y^e^ said W^m^ Penn, is become y^e^ rightful Proprietary & Governour of the Province aboves^d^, & is hereby freely & fully Recognized & Acknowledged: And The said Duke having, by two Deeds of Feofment, dated y^e^ 24 of y^e^ month, called August, in 1682, conveyed to William Penn, Proprietary & Governour of Pennsilvania, all that Tract of Land from Twelve Miles Northward of New Castle on y^e^ s^d^ River, down to the South Cape, call'd Cape Henlopen, upon y^e^ West side of y^e^ s^d^ River and Bay, & the s^d^ River & Soyl thereof, & all Isles therein, as by y^e^ said Deeds more at large appears, lately cast into Three Counties, called New Castle, Jones's and Whorekills, *alias* New Deal, & their Appertinances, w^th^ all Royalties and Jurisdictions thereunto belonging, whereby y^e^ Proprietary & Governour of Pennsilvania is Proprietary & Governour of the Counties afores^d^, which is also hereby recognized & freely & fully acknowledged to all Intents and Purposes: And forasmuch, as it is apparent y^t^ y^e^ just Encouragemen^t^ of y^e^ Inhabitants of this Province & terretory thereunto belonging is likely to be an effectual way for y^e^ Improvem^t^ thereof: And since some of y^e^ People y^t^ live therein & are like to come thereinto are Forreigners, & so not Freemen, according to y^e^ Acceptation of y^e^ Law of England, y^e^ Consequences of w^ch^ might prove very detrimental to y^m^ in their Estates & Traffick, & so injurious to y^e^ prosperity of this Province & Terretory thereof. *Be it enacted by y^e^ Governour & Proprietary of y^e^ Province & Counties aboves^d^, by & w^th^ y^e^ Consent of y^e^ Deputies of y^e^ Freemen thereof in Assembly met,* That all Persons who are Strangers & Forreigners, y^t^ now do inhabit this Province & Counties afores^d^, y^t^ hold Land in Fee in y^e^ same, according to y^e^ Law of a Freeman, & who shall within three months after y^e^ date hereof, in their respective county courts where they live, solemnly promise upon record, Faith & Allegiance unto y^e^ King of England, & his lawful heirs & successors, & Fidelity & lawfull obedience to W^m^ Penn, Proprietary & Governour of this Province &c, & his Heirs & Assigns, according to y^e^ King's Letters Patents, shall be held & reputed Freemen of y^e^ Province & Counties afores^d^, in as ample & full a manner as any Person residing therein, Any Act or Thing herein to y^e^ contrary in

Preamble.

Naturalization of foreigners, provided for.

any wise notwthstanding.* Given at Chester, *alias* Upland, this 7th Day of December, being y^{e} second year of y^{e} Goverment of William Penn, Proprietary and Governour of Pennsilvania, annoqe D'm, 1682.†

Certificate of naturalisation, to be given.

Cost thereof.

***& it is hereby further enacted by the Authority aforesaid*, That when at any time, any person that is a forenner, shall make his or her request to the Governour, his heirs or Assigns, to Injoy the freedom aforesaid, he or she shall be admitted on the Conditions hereinbefore expressed, by certificate under y^{e} hand and seal of y^{e} Proprietary Gov^{r}, every such one paying twenty shillings sterling & no more for a certificate of the same.

W^{m} PENN.

† This act declared a fundamental law—See Chapter 141, *post*. It was continued until the year 1700, and then an act of Assembly was made at New Castle of like import, which repealed it, and the act which repealed this was afterwards repealed—See Bioren's Laws, Vol. 6, Appendix, page 36.

THE GREAT LAW

OR

THE BODY OF LAWS,

Of the Province of Pennsilvania & Territories thereunto belonging, Past At an Assembly held at Chester, alias, Upland, the 7th day of the 10th Month called December, 1682.

Whereas, the glory of Almighty God and the good of Mankind, is the reason & end of government, and therefore, government in itself is a venerable Ordinance of God. And forasmuch as it is principally desired and intended by the Proprietary and Governor and the freemen of the Province of Pennsylvania and territories thereunto belonging, to make and establish such Laws as shall best preserve true Christian and Civil Liberty, in opposition to all Unchristian, Licentious, and unjust practices, (Whereby God may have his due, Caesar his due, and the people their due,) from tyranny and oppression on the one side, and insolence, and Licentiousness on the other, so that the best and firmest foundation may be layd for the present and future happiness of both the Governor and people, of the Province and territories aforesaid, and their posterity. Preamble.*

Be it therefore Enacted by William Penn, Proprietary and Governour, by, and with the Advice and Consent of the Deputies of the freemen of this Province and Counties aforesaid, in Assembly met, and by the Authority of the same, That these following Chapters and Paragraphs shall be the Laws of Pennsylvania and the territories thereof.

Chap. I. Almighty God, being Only Lord of Conscience father of Lights and Spirits, and the author as well as object of all Divine knowledge, faith, and Worship, who only can enlighten the mind, and persuade and convince the understandings of people. In due reverence to his Sovereignty over the Souls of Mankind . . . . .

Be it enacted by the Authority aforesaid, That no person, now, or at any time hereafter, Living in this Province, who shall confess and acknowledge one Almighty God to be the Liberty of conscience shall be given to all who acknowledge one God, &c.

* Marginal notes copied from original manuscript on file in office of Secretary of Commonwealth.—See Colonial Records, edition of 1852, Vol. I, page 97, where committee was appointed to inspect notes.

And who profess themselves obliged to live peaceably and quietly under the civil government.

Creator, Upholder and Ruler of the world, And who professes, him, or herself Obliged in Conscience to Live peaceably and quietly under the civil government, shall in any case be molested or prejudiced for his, or her Conscientious persuasion or practice.

Nor shall they be compelled to frequent or maintain any religious worship place or ministry whatever contrary to their minds. Deriders and Abusers of these, for different persuasions and practice in religion, punishable as disturbers of the peace.

Nor shall hee or shee at any time be compelled to frequent or Maintain anie religious worship, place or Ministry whatever, Contrary to his, or her mind, but shall freely and fully enjoy his, or her, Christian Liberty in that respect, without any Interruption or reflection. And if any person shall abuse or deride any other, for his, or her different persuasion and practice in matters of religion, such person shall be lookt upon as a Disturber of the peace, and be punished accordingly.

But Labor and common toil to be abstained from each first day of the week.

But to the end That Looseness, irreligion, and Atheism may not Creep in under pretense of Conscience in this Province, *Be It further Enacted by the Authority aforesaid*, That, according to the example of the primitive Christians, and for the ease of the Creation, Every first day of the week, called the Lord's day, People shall abstain from their usual and common toil and labour, That whether Masters, Parents, Children, or Servants, they may the better dispose themselves to read the Scriptures of truth at home, or frequent such meetings of religious worship abroad, as may best sute their respective persuasions.*

The qualifications of the employee of the government. Ought to believe Jesus Christ to be the son of God, and Saviour of the world. Not convicted of ill-fame or dishonest conversation and twenty one yrs. of age.

Chap. II. *And be it further Enacted by &c.* That all officers and persons Commissionated and employed in the service of the government in this Province, and all Members and Deputies elected to serve in the Assembly thereof, and all that have a Right to elect such Deputies, shall be such as profess and declare they believe in Jesus Christ to be the son of God, the Saviour of the world, And that are not Convicted of ill-fame, or unsober and dishonest Conversation, and that are of twenty one years of age at Least.†

Swearing by God, Christ, or Jesus, Shall pay five shillings or suffer five days imprisonment.

Chap. III. *And be it further enacted &c.* That whosoever Shall Swear in their common Conversation, by the name of God, or Christ, or Jesus, being Legally convicted thereof, shall pay for every such offence five shillings, or suffer five days imprisonment in the house of correction, at hard labour,

*Declared a fundamental law—See Chap. 141, *post*. Abrogated by William and Mary, King and Queen in 1693—See Appendix. Re-enacted the same year—See Chap. I, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chap. II, Petition of Right, *post*.

to the beehoof of the publick, and be fed with bread and water only, During that time.*

Swearing by any other thing or name. Pay half a crown or suffer three days imprisonment.

Chap. IV. *And be it further enacted &c.* that whosoever shall swear by any other thing or name, and is Legally convicted thereof, shall for every such offence, pay half a Crown, or suffer three days imprisonment in the house of Correction, at hard labor, having only bread and water for their sustenance.*

Speaking profanely of God, Christ, Spirit, or Scriptures. Pay five shillings, or suffer five days imprisonment.

Chap. V. *And be it further enacted &c.* for the better prevention of Corrupt Communication, That whosoever shall speak loosely and profanely of Almighty God, Christ Jesus, the Holy Spirit, or the Scriptures of truth, and is legally convicted thereof, shall, for every such offence, pay five shillings, or suffer five days imprisonment in the house of Correction, at hard labour, to the behoof of the public, and be fed with bread and water only, during that time.*

Cursing. Pay five shillings or suffer five days imprisonment.

Chap. VI. *And be it further enacted &c.* That Whosoever shall, in their Conversation at any time Curse himself or another or anything belonging to himself or any other, and is Legally convicted thereof, shall pay for every such offence five shillings, or suffer five days imprisonment as aforesaid.*

Defiling the marriage bed. Public whipping and a year's imprisonment.

Chap. VII. *And be it further enacted &c.* that whosoever defileth the marriage bed, by lying with another Woman or Man, than their own wife or husband, being legally convicted thereof, shall for the first offence be publicly whipt and suffer one whole year's imprisonment in the house of correction, at hard labor, to the behoof of the publick, and longer if the Magistrate see meet. And both he and the woman shall be liable to a Bill of Divorcement, if required by the grieved husband or wife, within the said term of one whole year after Conviction. And for the Second offence, imprisonment in manner aforesaid, During Life. And if the party with whom

The offender divorceable, if the grieved will within a year.

Second offence. Imprisonment for life.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 3, 4 and 5, Petition of Right, *post*.

the husband or wife shall defile themselves be unmarried, for the first offence they shall suffer half a year's imprisonment, in the manner aforesaid, And for the second offence, Imprisonment for Life.*

The incestuous shall forfeit one half their estate. Second offence, imprisonment for life.

Chap. VIII. *And be it further enacted &c.* that if any person shall be Legally convicted of Incest, which is uncleannes betwixt near relations in blood, such shall forfeit one half of his estate, and both suffer imprisonment a whole year, in the house of Correction, at hard labour, and for the second offence, imprisonment in manner aforesaid during life.*

Sodomy and bestiality whipping and forfeit one third of estate and six mo. imprison. second offence, during life.

Chap. IX. *And be it enacted &c.* That if any person shall be Legally Convicted of the unnatural sin of Sodomy or joining with beasts, Such persons shall be whipt, and forfeit one third of his or her estate, and work six months in the house of Correction, at hard labour, and for the Second offence, imprisonment, as aforesaid, during life.†

Rape or ravishment. Forfeit one third of estate, whipping, and a year's imprisonment. Second offence for life.

Chap. X. *And be it further enacted &c.* That Whosoever shall be Convicted of Rape or Ravishment, that is, forcing a Maid, Widow, or Wife, shall forfeit One third of his Estate to the parent of the said maid, and for want of a parent, to the said maid, And if a Widow, to the said Widow, and if a Wife, to the husband of the said Wife, and be whipt, and suffer a year's imprisonment in the house of Correction, at hard Labour, and for the second offence, imprisonment, in manner aforesaid, during Life.†

Bigamy and an unmarried, marrying a married, knowingly. Imprisonment for life.

Chap. XI. *And be it further Enacted &c.* That Whosoever shall be Convicted of having two wives or two husbands, att one and the same time shall be imprisoned all their Lifetime in the house of Correction, at hard labour, to the behoof of the former wife or children, or the former husband or chil-

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 6 and 7, Petition of Right, *post.*

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

dren; And if a man or woman, being Unmarried, do knowingly marry the husband or wife of another person, hee or shee, shall be punished after he same manner aforesaid.*

Drunkenness. First offence five shillings. Second offence, ten shillings.

Chap. XII. *And be it &c.* that every person Disordering or abusing hi self with Drink, unto Drunkenness, being Legally convicted therof, shall for the first time, pay five shillings, or work five days in the house of correction at hard Labour and be fed only with bread and water; And for the second offence, and ever after, ten shillings, or ten days labour as aforesaid.*

Sufferers of such excess, so also punished.

Chap. XIII. *And be it &c.* that they who doe suffer such excess of Drinking att their houses, shall be lyable to the same punishment as the Drunkard.*

Health drinking and pledgers five shillings.

Chap. XIV. *And be it &c.* that if any person shall drink healths, which may provoke people to unnecessary and excessive Drinking, being Legally convicted thereof, shall for every such offence, forfeit five shillings, And whosoever shall pledge the same, shall be lyable to the same punishment.*

Chap. XV. And whereas Divers persons, as English Dutch, Swedes, &c. have been wont to sell to the Indians, rum and Brandy, and such like distilled spirits, though they know the said Indians are not able to govern themselves in the use thereof, but do commonly drink of it to such excess, as makes them sometimes destroy one another, and grievously annoy and Disquiet the people of this Province & Territories and peradventure, those of neighboring governments, whereby they make the poor natives worse, and not better for their coming among them, which is an heinous offence to God, and a reproach to the blessed name of Christ, and his holy Religion.

Exchanging or selling of rum, brandy, strong liquors to Indians.

It is therefore Enacted &c. That no person within this province do, from henceforth presume to sell or exchange any Rum or Brandy, or any strong Liquors, at any time, to

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 8, 9, 10 and 11, Petition of Right, *post*.

Five pounds.

any Indian within this Province, And if any one shall offend therein, The person so Convicted thereof shall, for every such offence pay five pounds.*

Willfull firing of houses. Shall pay double value, suffer a years imprisonment, and such corporal punishment as the county court pleases.

Chap. XVI. *And be it &c.* That Whosoever shall be Convicted of willfully firing of any man's House, Warehouse, Outhouse, Barns, Stables, Stacks or Ricks of Corn, Vessels, or Boats, in any part of this Province or territorys thereunto annexed, Every such offender shall be lyable to make satisfaction Double the value, and suffer imprisonment for one whole year, in the house of Correction, and bear such Corporal punishment as shall be inflicted by the Court of justice of that County where the party offending hath Committed the fact.†

Breaking into and taking any thing out of houses; fourfold satisfaction; and three month's imprisonment. Unable to restore, seven years imprisonment.

Chap. XVII. *And be it &c.* That if any person shall break into the dwelling house of any other, to the frighting of any dwelling therein, and shall intend or offer to take away anything out of the said house, such person Convicted thereof, shall make fourfold satisfaction, and suffer three months imprisonment at hard labor, in the house of correction, And if the party offending, be not able to make restitution, hee or shee shall be imprisoned seven years.‡

Lands and goods of thieves and felons shall satisfy fourfold and if no lands or goods, they shall be bondsmen till satisfaction.

Chap. XVIII. *And be it &c*, That the Lands and goods of Theeves and Fellons, shall be Lyable to make Satisfaction, to the party wronged, fourfold the value, and for want of Lands or goods, the theef or fellon shall be Bond-man to Work in the Common prison or workhouse, or otherwise, till the party injured, be satisfyed.†

Forcible entry punishable as a breaker of the peace.

Chap. XIX. *And be it &c.* That if any person shall violently or forcibly enter the house or possessions of any other, being

* Repealed May 16, 1684. Re-enacted by resolution of Council, September 17, 1685—See Colonial Records, edition of 1852, Vol. I, page 154.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡ Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 12, Petition of Right, *post*.

duly Convicted thereof, shall be punisht as a Breaker of the peace, and make such satisfaction to the party aggrieved, as the Circumstances of the fault will bear.*

Unlawful assemblies, committing or designing violence; punishable as rioters and that act of terror as a riot.

Chap XX. *And be it &c.* That if any persons, to the Number of three, shall meet together, with Clubs, Staves, or any other hurtful weapon, to the terror of any of the peaceable people of this Province, and Commit or Design to Commit any Violence or injurie upon the person or goods of any of the said inhabitants, & be convicted thereof, They shall be reputed and punisht as Rioters, and that act of terror and Violence, or Design of Violence, accomted a Riot.*

Assaulters or menacers of parents to be put in house of correction during parents will.

Chap. XXI. *And be it &c.* That Whosoever shall Assault or Menace a parent, and shall be duly proved guilty thereof, shall be Committed to the house of Correction, and there remain at hard Labour during the pleasure of the said parent.*

Assaulters and menacers of magistrates fineable and imprisonable one month.

Chap. XXII. *And be it &c.* That if any person shall Assault or Menace a Magistrate, and be duly Convicted thereof, hee shall be fined according to the nature of the fact, and be Committed to the house of Correction, at hard Labour, for one month after Conviction.*

Assaulters or menacers of masters punishable at discretion of two magistrates &c.

Chap. XXIII. *And be it &c.* That if any Servant Assault or Menace his or her Master or Mistress, and be Convicted thereof, hee or shee shall be punisht at the Discretion of two Justices of the peace, so it be sutable to the nature of the offence.*

Assault and battery is breach of the peace, and punishable nature of fact.

Chap. XXIV. *And be it &c.* That any person Convicted of an Assault or Battery, Committed by him on another person,

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 13, 14, 15, 16, and 17, Petition of Right, *post*.

hee shall be Reputed a Breaker of the peace, and shall be punisht according to the Nature and Circumstance of the fact.*

Duellers shall pay five pounds or three months imprisonment.

Chap. XXV. *And be it &c.* That whosoever shall Challenge another person to fight, hee that Challengeth, and hee that accepteth the Challenge, shall for every such offence, pay five pounds, or suffer three month's imprisonment in the house of Correction, at hard Labour.†

Riotous sporters, finable as peace breakers, and ten days imprisonable or pay twenty shillings.

Chap. XXVI. *And be it &c.* That whosoever shall introduce into this Province, or frequent such rude and riotous sports and practices as Prizes, Stage-plays, Masques, Revels, Bull-baitings, Cock-fightings, with such Like, being Convicted thereof, shall be reputed and fined as Breakers of the peace, and suffer at least ten days' imprisonment at hard labour in the house of correction, or forfeit twenty shillings.†

Card } players
Dice }
Lottery }
Five shillings or five days imprisonment.

Chap. XXVII. *And be it &c.* That if any person be Convicted of playing at Cards, Dice, Lotteries, or such like enticing, vain, and evil Sports and Games, such persons shall, for every such offence, pay five Shillings, or Suffer five Days Imprisonment (at[a] hard labour,) in the house of Correction.)†

Seditious persons fineable at least, twenty shillings.

Chap. XXVIII. *And be it &c.* That if any person shall speak, write, or act anything tending to Sedition or Disturbance of the peace, and be Duly convicted thereof, The party so offending shall for every such offence, be fined, according to the nature and Circumstance of the fact, Provided, it be not less than twenty shillings.†

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 18, 19 and 20, Petition of Right, *post.*

Chap. XXIX. *And be it &c.* That if any person speak slightlingly, or carry themselves abuseively against any Magistrate or person in office, being Duly Convicted thereof, shall, for every such offence, Suffer according to the quality of the magistrate, and nature of the offence, Always provided it be not less than twenty shillings, or ten days imprisonment, at hard labor, in the house of Correction.*

Speaking slightingly or carrying abusively against any magistrate; fineable at least twenty shillings or ten days imprisonment.

Chap. XXX. *And be it &c.* That all Scandalous and Malicious Reporters, Defamers, and Spreaders of false news, whether against Magistrates or private persons, being duly convicted thereof, shall be accordingly Severely punished, as Enemies to the peace and Concord of the Province.†

Scandalous reporters, defamers, and spreaders of false news; punishable as enemies to the peace of province.

Chap. XXXI. *And be it &c.*. That if any person shall be Clamorous, Scolding, & Railing with their tounges, upon Complaint and full proof thereof, before a Justice of the peace, The said Justice, shall for every such offence, Commit such person to the house of Correction, and there to remain three days at hard labor.†

Clamorous / Scolding / Railing } persons Correctionable three days.

Chap. XXXII. *And be it &c.* That if any person or persons shall fall into Decay and poverty, and not be able to maintain themselves and children, with their honest Endeavors, or shall die and leave poor orphans, That upon complaint to the next Justices of the peace of the same County, The said Justices, finding the complaint to be true, shall make provision for them, in such way as they shall see convenient, till the next County Court, and that then Care be taken for their future comfortable subsistence.*

Provision for poor persons by county court.

Chap. XXXIII. And to Prevent Exaction in publick Houses, *be it &c.* That all Strong beer, and Ale, made of Barley malt, Shall be sold for not above two pennies, Sterling, a

Beer and ale made of malt two pennies, and of molasses, one penny, per quart Winchester.

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 21 and 22, Petition of Right, *post*.

full Winchester quart; and all Beer or Drink made of Melasses shall not exceed one penny a quart.*

Measures and weights to be English standard.

Bushel, eight gallons, Winchester.

All weights to be avoirdupois.

Chap. XXXIV. And to Prevent fraud in Measures, and to Reduce all forreign measures here, to the English Standard, *Be it &c.* That the measures of this Province, shall be according to the Standard of weights and measures in England, That is to say, a Bushel shall contain Eight gallons, according to the Winchester measure, and all weights to be Avoirdupois, which hath sixteen ounces to the pound, within three months after the first Sessions of this Assembly.†

Days and months to be called, first, second, third, scripturally.

Chap. XXXV. *And be it &c further &c.* That the Days of the week, and months of the year, shall be called as in Scripture, and not by Heathen names, (as are vulgarly used), as the First, Second, and Third, months of the year, and First, Second, and Third, days of the week; and beginning with the day called Sunday, and the month called March.‡

Two witnesses in order to judgement, and the manner of their testifying, by solemnly promising to speak the truth, whole, and nothing but the truth.

A false witness punishable as the person against whom he witnessed, and never again to be credited in court.

Shall satisfy the injured.

Chap. XXXVI. *And be it &c.* That there shall be Two credible witnesses in all Cases, in order to judgement, And all witnesses coming or called to testify their knowledge in or to any matter or thing in any Court, or before any lawful Authority within the said Province, and territories thereunto annexed, Shall there give & deliver in their Evidence or testimony, By solemnly promising to speak the truth, the whole truth, and nothing but the truth, to the matter or thing in Question. And in case any Person so called to evidence, shall afterwards be Convicted of Willfull falsehood, such person shall suffer and undergo such Damage or penalty, as the person, or persons, against whom hee or shee bore false witness, did or should undergo, and shall also make Satisfaction to the party Wronged, and be publicly exposed for a false witness, never to be Credited again in any Court, or before any Magistrate in the said Province &c.

Lying, pay half a crown, or three days' correction.

And whosoever shall be Convicted of lying in conversation, shall for every such offence, pay half a crown, or suffer

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Repealed in the year 1684—See Chapter 155, *post.*

‡Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 23, Petition of Right, *post.*

three days' imprisonment in the house of Correction, at hard labour.*

Chap. XXXVII. *And be it &c.* That all pleadings, processes, and Records, in Courts, shall be short, and in English, and in an ordinary and plain Character, that they may be easily read, and understood, and justice speedily administered.† Pleadings, processes, and records, to be short, English, and plain character.

Chap. XXXVIII. *And be it &c.* That all Tryalls in Civil Cases, shall be by twelve men, and as neer as may be, Peers or Equals and of the neighbourhood, and men without just exception. Trials in civil, by twelve men.

And in Criminal matters of Life, there shall be first twenty four returned by the sheriff, for a Grand Inquest, of whom twelve at least shall find the Complaint to be true, And then forty eight, shall be likewise returned by the Sheriff, of whom twelve shall have the final Judg-ment, But reasonable Challenges shall be always admitted, against all or any of them. *vid. Cap. 69.*‡ In criminals by twenty four, a Grand jury. And then forty eight shall be returned, of whom twelve shall finally judge.

Chap. XXXIX. *And be it &c.* That all Fees, and Salaries in all Cases, shall be Moderate, and limited by the Governor and Assembly, and be hung up in a Table in every respective Court; And whosoever shall be Convicted of taking more, shall pay two-fold, and be dismissed his Employment, One moiety of which shall go to the party wronged. Fees and salaries moderate, limited, and hung in a table in court. Takers of more, forfeit twofold, and loose office.

And that all Persons Convicted of Bribery and Extortion, shall forfeit Double the same.† Bribery and extoortion, forfeit double.

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*Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary in the year 1693—See Appendix. So much of this law as regards the manner of giving evidence, is in substance the same with the 26th law agreed upon in England—Bioren's Laws, Vol. 6, Appendix, page 37.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 24 and 26, Petition of Right, *post.*

‡Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 25, Petition of Right, *post.*

Fines moderate, saving contenements, merchandise or wainage.

Chap. XL. *And be it &c.* That all Fines shall be moderate, Saving men's Contenements, merchandise, or Wainage, Which is to say; The furniture of their Calling and means of Livelihood.*

Numerous suits avoidable, by defalcation of debt equally clear.

Chap. XLI. *And be it &c.* That for avoiding Numerous Suits, if two men Dealing together, be indebted to each other, upon Bonds, Bills, Bargains, or the Like, Provided they be of equal clearness and truth, The Defendant shall, in his Answer, acknowledge the debt which the Plaintiff Demandeth, and defaulk what the Plaintiff oweth to him upon the like Clearness.†

Arrestor's of goers out the province, shall declare and evidence next day. And insure the damages of the arrested if cast.

Chap. XLII. *And be it &c.* That in Case any man Arrest another going out of the Province, hee shall be ready with his Declaration and Evidence the next day, and shall put in Security to pay the Charges and Damages Sustained by the party arrested, if he shall be found in the Wrong.†

Promises and bargains about buying and selling, evidenced, shall stand firm; and violaters of, shall pay double value to injured.

Chap. XLIII. *And be it &c.* That all Promises, Bargains, and Agreements, about buying and Selling, being made appear by Sufficient Evidence, shall stand good and firm, And such as shall Violate the same, hee or shee shall for every such offence, pay twice the value to the person Wronged.†

Charters, Gifts, Grants, Conveyances of land
Also
Bills, Bonds, Specialties above 5 lb.
To be registered in two months after making; else void.

Chap. XLIV. *And be it &c.* That to Prevent Frauds and Vexatious Suits, within the said Province and territories thereunto annexed, all Charters, Gifts, Grants, And conveyances of land (except Leases for one year or under) And all Bills, Bonds, and Specialties above five pounds, and not under three months, made in the said Province, shall be Enrolled or Registered in the publick Enrollment Office of the said Province, within the space of two months next after the making thereof, Else to be void in law.

And all Deeds, Grants, and Conveyances, of Land (except

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*Repealed in the year 1684—See Chapter 155, *post.*

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 27, 28, and 29, Petition of Right, *post.*

as aforesaid) within the said Province, and made out of the said Province, shall be Enrolled or Registered as aforesaid, within six months next after the making thereof, and settling and Constituting an Enrollment office or Registry within the said Province; Else to be void in law against all persons whatsoever. And in case the Deeds of Purchase in England made of lands in this Province, should be Lost by the way, and so cannot be Registered, Copies of the Deeds, attested by a publick Notary, shall be of equal force therein.*

Deeds &c of land (but made out of province); in six months, else void. Copies of deeds of purchase (in England of land here if lost) at tested by a public notary, of equal force with the principals.

Chap. XLV. *And be it &c.* That all Wills in writing attested by two sufficient witnesses, shall be of the same force as to Land, as to other Conveyances, being legally proved within forty days either within or without the said Province.†

Wills at two witnesses proved in forty days. Shall convey land as well as chattels.

Chap. XLVI. *And be it &c.* That the Will of no person shall be of force, that is not in his or her Right mind, and usual Understanding, at the making thereof.†

Chap. XLVII. *And be it &c.* That there shall be a Registry for Births, Marriages, Burialls, Wills, The names of Executors, and Guardians, and Trustees, and Letters of Admistration, distinct from the other Registers.‡

There shall be a registry for births, marriages, burials, wills, executors, guardians and trustees and letters of administration, distinct.

Chap. XLVIII. *And be it &c.* That there shall be a Registry for all Servants, Where their names, Time, Wages, and Days of freedom or payment shall be Registered.§

There shall be a registry for servants.

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* Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 30, Petition of Right, *post.*

‡ Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

§ Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Factor wronging employer, satisfaction and one third over; and if he die, committee of trade to secure what belongs to the employer.

Chap. XLIX. *And be it &c.* That all Factors or Correspondents, in the said Province and territories, wronging their Employers, shall make Satisfaction, And one Third over to their said Employers: And in Case of the Death of any such Factor or Correspondent, the Committee of Trade shall take Care to Secure as much of the Deceased party's estate as belongs to the said respective Employers.*

Defacers or falsifyers of wills, registry or record; shall pay double to the injured, and shall bear no trust, and be publicly disgraced as false persons.

Chap. L. *And be it &c.* That all Defacers, Corrupters, or Embezzlers, of Charters, Gifts, Grants, Records, Bonds, Bills, Wills, Contracts or Conveyances, or that shall deface or falsify any Enrollment, Registry, or Record, within this Province, shall make Double Satisfaction for the same, half whereof shall go to the party wronged, and they shall be Dismist of all places of trust, and be publicly Disgraced, as False persons.†

All lands and goods shall pay debts; but if there be issue, then all the goods and one half of land, if the land was bought before the debts were contracted.

Chap. LI. *And be it further Enacted by the Authority aforesaid*, That all Lands and goods shall be Lyable to pay debts; Except where there be legal Issue, And then all the goods, and one half of the land only, in case the land was bought before the debts were Contracted.‡

All persons (except for capitals), ballable.

And every quarter year a goal delivery.

Chap. LII. *And be it &c.* That all persons shall be Ballable by sufficient Sureties, unless for Capital Offences, where the proof is evident, or the presumption great; And every quarter of a year, there shall be a goal Delivery in every County, where imprisonment is not the punishment.§

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 31, Petition of Right, *post*.

‡See Chapter 189, *post*, for fuller explanation of this law. Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

§Declared a fundamental law—See Chapter 141, *post*. Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Chap. LIII. *And be it &c.* That goalers shall not oppress their Prisoners, and that all prisons shall be free as to room, and all prisoners shall have liberty to provide themselves, bedding, food, and other necessaries, During their imprisonment, Except such whose punishment by Law, will not admit of that Liberty.* Goalers not to oppress the prisoners; prisons shall be free as to room; and prisoners may provide the necessaries.

Chap. LIV. *And be it further Enacted by the authority aforesaid*, That all Prisons shall be workhouses for felons, Thiefs, Vagrants, and Loose, abusive and Idle persons, whereof one shall be in every county.* Prisons to be workhouses for felons, thieves and vagrants.

Chap. LV. *And be it &c further enacted by the authority aforesaid*, That any person wrongfully imprisoned, shall have Double Damages against the informer or prosecutor.* Wrongfully imprisoned, double damages.

Chap. LVI. *And be it &c.* That as in Divers Laws the penalty of the offence is thus expressed, either a certain sum of Money or certain time of imprisonment at hard Labour, in the house of Correction; it shall be Left to the Choice of the Civil magistrate, which of the 2 punishments he will inflict upon the person so offending. And whosoever shall know of any of the aforementioned offences, and inform the Civil magistrate thereof, shall have one third of the fine, and if any one shall Conceal such person, hee or shee shall pay one half the fine, Due from the guilty person.* Where the penaltie is either a sum or imprisonment; the magistrate shall inflict as he will. The informer shall have one third the fine. Concealer pay one half the fine.

Chap. LVII. And to the End, That it may be known, who these are That, in this Province and Territories thereunto belonging, have Right of freemen to Choose, or to be Chosen, and with the Proprietary and Governor, make and Enact laws.

That every Inhabitant of the said Province and territories thereunto annexed, that is, or shall be a Purchaser of one hundred acres of Land, and hath Seated the same, his heirs and Assigns, And every person who shall have paid his passage and taken up one hundred acres of land at one penny 1st. Purchasers of one hundred acres and seaters thereof.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 32, 33, 34, and 35, Petition of Right, *post*.

2nd. Takers up of one hundred acres and seaters thereof.

3d. Servant is free by his service; and taking fifty acres; seaters thereof.

4th. Payer of scot and lot, are freemen and have right of election or being elected to services in the government.

an acre, and hath Seated the same, And every person that hath bin a Servant or Bondsman, and is free by his Services, and shall have taken up his fifty acres of land, and Seated the same. And every Inhabitant, Artificer, or other Resident in the said Province, or territories, that payeth Scot and Lot to the government; Shall be Deemed and accompted a freeman of this Province and territory thereof, And such only shall have Right of Election, or being elected to any Service in the government thereof.

And shall subscribe the following declaration. Fidelity and lawful obedience to Wm Penn, and his heirs and assigns, as proprietary and governour of the same. And that they will never act directly or indirectly, nor consent to, nor conceal person, or thing to the breach of this solemn engagement.

Provided also, And be it &c. That all persons, holding any office in this Province, or territories thereunto belonging; Or that hath or shall have right to Choose or to be Chosen Members of Assembly, shall be such as shall subscribe this this following Declaration: I. A. B., do hereby freely acknowledge and Solemnly Declare and promise, fidelity and lawful Obedience to William Penn, son, and heir of Sir W^m^ Penn, deceased, and his heirs and Assigns, as Rightful Proprietary and Governour of the same, according to the King's Letters Patents, and Deeds of Grant and feoffment, from James, Duke of York and Albany &c; and That I will never act or do, by word or deed, directly or indirectly, anything, Nor Consent to, nor Conceal any person or thing whatsoever, to the breach of this solemn Engagement. In witness of which I have hereunto set my hand, this sd. day of &c. in the year &c. A. B.*

Chap. LVIII. And that Elections may not be Corruptly managed, upon which the present and future good of the Province, so much Depends:

Elections shall be free and voluntary. The elector receiving reward, forfeit his rights to elect. The giver reward forfeits his election. Assembly sole judges of regularity or irregularity of elections.

Be it &c. That all Elections of Members, or Representatives of the people and freemen of the Province of Pennsilvania, and territories annexed, to serve in the Assembly thereof, shall be Free and Voluntary; And that the elector that shall receive any reward or Gift, in Meat, Drink, Moneys, or otherwise, shall forfeit his right to elect; and such person, As shall give, promise, or bestow, any such reward as aforesaid to be elected, shall forfeit his election, and be thereby incapable to serve as aforesaid; and the Assembly shall be sole Judges of the Regularity or Irregularity of the elections of the Members thereof.†

Chap. LIX. And that the people may be fully secured in

* Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 36, Petition of Right, *post.*

the Enjoyment of their Property: *Be it &c.* That no money or goods shall be raised upon, or paid by any of the people of this Province and territories annexed, by way of a Publick tax, Custom, or Contribution, but by a law for that purpose made by the Governour and freemen of the said Province, and territories thereof; And whosoever shall levy, collect, receive, or pay any money or goods, Contrary thereunto, shall be held and punished as a publick enemy to the Province, and a Betrayer of the Liberty of the people; And that no tax at any time shall Continue any longer, than the space of one whole year.*

No money or goods, or levy of tax, custom or contribution paid but by law.

The punishable as public enemies to the province and betrayers of the peoples liberty.

Tax to continue but a year.

Chap. LX. *And be it &c.* That the Laws of this Province, from time to time, shall be publisht and printed, that every person may have the knowledge thereof; And they shall be one of the Books taught in the Schooles of this Province, and territorys thereof.†

Laws to be published, printed, and taught in ye Schooles.

Chap. LXI. *And be it further Enacted by the Authority aforesaid,* That all other maters and things, not herein provyded for, which shall and may Concern the publick good, and Justice, Peace, and Safety of the said Province, And the Raising and Imposing taxes, Customs, dutys, or other Charges whatsoever, shall be, and are hereby referred to the Order, Prudence, and Determination of the Governour and Freemen of the said Province, from time to time.†

All other things relating to the publick good, and Justice, peace, and safety of the Province; and the raising and imposing of Taxes. Customs, Duties &c. referred to the governour and Freemen from time to time.

At an Assembly held at Philadelphia, in the Province of Pennsylvania, the 10th day of the 1st Month, March, 1683, the following act, among others, was passed, viz:

ACT OF SETTLEMENT.

Chap. LXII. Whereas Wm Penn, Proprietary and Governor of the Province of Pennsylvania, and territories thereunto be-

‡Act of settlement.

Preamble.

By the first charter of 25th, 2nd. mo., 1682. The government was to consist of the

*Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary. King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 37, Petition of Right, *post.*

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡The marginal notes to this act are copied from the original manuscript on file in the office of the Secretary of the Commonwealth—See Colonial Records, edition of 1852, Vol. I, page 97, where committee was appointed to inspect notes.

governor and freemen, in form of a provincial council and general assembly. The provincial council was to consist of 72; and the general assembly was the first year to be the whole body of freeholders; and thereafter not to exceed two hundred.

longing, hath out of his great kindness and goodness to the Inhabitants thereof, bin favorably pleased to give and grant unto them a Charter of Liberties and priviledges, dated the 25th day of the 2nd month 1682; By which charter it is said, That the Government shall consist of the Governour and freemen of the said Province, in the form of a Provincial Council, and General Assembly, And that the Provincial Council shall consist of 72 members to be chosen by the freemen; And that the General Assembly may the first year consist of the whole body of freeholders, and ever after, of an Elected number, not Exceeding two hundred persons, without the consent of the Provincial Council and General Assembly, and such Assembly to sitt yearly on the twentieth day of the third month, As in the 1st., 2nd., 3d., 6th., 14th., and 16th Articles of the Charter.

And to sit 20th day, 2d. month.

(Reference being thereunto had) doth more at large appear.

And this charter being the first of the probationary laws made in England between the governor and purchasers.

And Forasmuch as this Charter was the first of those Probationary Laws that were agreed to, and made by, and between the Proprietary and Governour, and the Freeholders in England, purchasers in this Province, Which said laws in the whole, and every part thereof, were to be submitted to the Explanation and Confirmation, of the first Provincial Council, and General Assembly that were to be held in this Province. As by the title and first law of the said Agreement, doth plainly appear.

Which laws were under submission to the explanation and confirmation of the first provincial council, and general assembly to be held here.

According to which charter, the proprietary and governor issued writs to the sheriffs to summon the freemen to choose (twelve out of each of the six counties, in all seventy two) for a provincial council.

And Whereas the Proprietary and Governor hath according to that Charter, issued out, written to the respective sheriffs of the six Counties of this Province, to Summon the freemen thereof, to Choose in each County twelve persons of most note for their Sobriety, Wisdom, and integrity, to Serve in Provincial Council; And also to inform the freemen, that they might come for this time, in their own persons, to make up a General Assembly, according to Charter.

And to summon the freemen to come in person for a general assembly.

But the sheriffs by their returns; and the freemen by their petitions to the governor.

And that the said respective Sheriffs, by their Returns, and the Freemen by their Petitions to the Proprietary and Governour have plainly declared, That the fewness of the people, their inability in estate, and Unskillfullness in Matters of government, will not permit them to serve in so large a Council, and Assembly, as by the Charter is expressed; And therefore do desire that the members now chosen to be their Deputies and Representatives, may serve both for Provincial Council, and General Assembly, That is to say: three out of each county, for the Provincial Council, and the remaining nine for the General Assembly, according to Act, as fully and amply as if the said Provincial Council, and General Assembly had consisted of the same number of members, mentioned in the Charter of Liberties. Upon Consideration of the Premises, and that the Proprietary and Governour may testify his great willingness to Comply with that which may be most easy and pleasing to ye people, Hee is willing that it be Enacted, *And it is enacted by the Proprietary and Governour, by and with the Unanimous advice and Consent of the freemen of this Province and territory thereunto belonging, in Provincial Council and General Assembly met*, That the Numbers Desired by the inhabitants in their Several Pe-

Declared that they could not serve in so large a council and assembly; And therefor desired that the seventy two then chosen (i. e. eighteen for the provincial council and fifty four, for the general assembly) might serve for both.

Enacted that eighteen serve for the general assembly; and fifty four for the provincial council this year.

titions, and exprest to be their Desires, by the Sheriffs Returns to the Proprietary and Governour, to serve as the Provincial Council and General Assembly, Be allowed and taken to all intents and Purposes to be the Provincial Council and General Assembly of this Province. And that the Quorums shall be proportionally Setled, according to the method exprest in the fifth article, That is to say, two thirds to make a Quorum in extraordinary Cases, and One third in Ordinary Cases, as is provided in the said fifth Article; Which said Provincial Council and General Assembly so already chosen, are and shall be held and reputed as the Legal Provincial Council and General Assembly of this Province and territories thereof, for this present year. And that from and after the Expiration of this present year, The Provincial Council shall consist of three persons out of each County as aforesaid, And the Assembly shall consist of six persons out of each County; Which said Provincial Council and General Assembly may be hereafter enlarged, as the Governor, Provincial Council, and Assembly shall see Cause, so as the said number do not at any time, Exceed the Limitations exprest in the third and sixteenth Articles of the Charter, Anything in this Act or any other Act, Charter, or Law, to the Contrary in any wise notwithstanding.

And in cases extraordinary, twelve, and in ordinary, six, make a quorum.

And that this be the legal provincial council and general assembly for this year.

And there after the provincial council shall consist of three, and the assembly of six persons out of each county.

Afterwards enlargeable, as the governor, provincial council, and assembly shall see meet.

So as the provincial council exceed not seventy two, and the general assembly five hundred.

And becaus the freemen of this Province, and territories thereof, are deepli sensible of the good and kind intentions of the Proprietary and Governor in this Charter, and of the Singular benefit that redounds to them Thereby, and are Desirous that it may in all things best answer his Design, for the publick good. The Freemen of the said Province and territories thereof, in Provincial Council and General Assembly met, having Unanimously requested some variations, Explanations and Additions, in, of and to the said Charter. Hee, the Proprietary and Governor hath therefor yielded that it be Enacted,

The freemen being sensible of the gover's kind intentions to them by said charter.

Requested some Variations / Explanations } of and additions to it.

And it is hereby Enacted, That the time for the meeting of the freemen of this Province, and territories thereof, to Choose their Deputies to represent and serve them in Provincial Council and General Assembly, shall be yearly hereafter, on the tenth day of the first month; Which members so chosen for the Provincial Council, shall make their appearance and give their attendance in Provincial Council within twenty days after their election; And the said members elected to serve in General Assembly, shall yearly meet and assemble on the tenth day of the said, third, month; to the end and purposes Declared in the Charter, and in such place as is limited in the said Charter, unless the Governor and Provincial Council, shall at any time see caus to the contrary.

Therefor enacted that the time for choosing representatives hereafter, shall be the tenth day of the first month.

Representatives for provincial council shall appear in provincial council twenty days thereafter.

And for general assembly, tenth day of the third month.

And Whereas it is expressed in the said Charter, that The Governor and Provincial Council, shall prepare and propose to the General Assembly, all Bills, which they shall think fit to pass into Laws, within the said Province.

Be it Enacted by the Authority aforesaid, that the Governor and Provincial Council shall have the power of preparing, and proposing to the General Assembly, all Bills

Governor and provincial council shall prepare and propose to

General Assembly, all bills which they shall jointly assent to, to be passed into laws that are not inconsistent with powers of the patent.

which they shall jointly assent to, and think fit to have past into laws, in the said Province and territories thereof, that are not inconsistent with, but according to the powers granted by the King's Letters Patents, to the Proprietary and Governor aforesaid, Which Bill shall be published in the most Noted towns, or places in the said Province and territories thereof, twenty days before the meetting of the General Assembly aforesaid.

Which bill to be published, twenty days before meeting of general assembly.

And for the better Decision and Determination of all matters and Questions in Provincial Council and General Assembly, It is hereby declared and enacted That all Questions upon Elections of Representatives, and Debates in Provincial Council and General Assembly, in personal maters, shall be decyded by the Ballot; And all Questions about preparing and enacting of laws shall be Determined by the Vote.

All questions upon elections of representatives and debates in provincial council and general assembly, in personal matters, decidable by ballot.

And that so United an Interest may have an United term, or stile to be expressed by; *It is hereby declared and Enacted*, that the General Assembly shall be henceforth termed or called, The Assembly, And the meeting of the Governour, Provincial Council and Assembly; and their acts and proceedings, shall be styled and called, The Meeting, Sessions, Acts or proceedings of the General Assembly of the Province of Pennsylvania, and the territories thereunto belonging.

And about preparing and enacting laws, by the vote.

The freemen accept of a charter.

And that the freemen of this Province and territories thereof, may not on their parts seem unmindful or ungrateful to their Proprietary, and Governour, for the testimony hee hath bin pleased to give of his great goodwill, towards them and theirs, nor be wanting of that Duty They owe to him and themselves; they have prayed leave hereby to declare their most hearty acceptance of the said Charter, and their humble acknowledgements for the same; Solemnly promising that they will Inviolably observe and keep the same, (except as is therein excepted) And will neither directly, nor indirectly, Contrive, propose, enact or do anything or things Whatsoever, by virtue of ye power thereby granted unto them, that shall or may redound to the prejudice or Disadvantage of the Proprietary and Governour, his heirs, and successors, in their just rights, properties and priviliges, granted to him and them, by the King's Letters' patents, and Deeds of Release, and feoffment, made unto him by James, Duke of York and Albany &c.; And whom they Desire may be hereby recognized, and acknowledged, and they are hereby recognized and acknowledged, the true and Rightful, Proprietaries and Governors, of this Province of Pennsilvania and territories thereunto annexed, according to the King's Letters' patents, and Deeds of Release and feoffment from James, Duke of York and Albany &c., unto the said Proprietary and Governour, his heirs and successors.

Promising to keep the same.

Not to contrive, propose, enact or do any thing, by virtue of the power hereby granted to them, to the prejudice of the governor and his heirs &c. in their just rights granted to them by the king's letters patents.

Whom they hereby recognize, and acknowledge the true and rightful proprietaries and governors of Pennsylvania.

Anything in this Act, or any other Act, grant, Charter, or law, to the contrary of these things herein and hereby explained, altered, limited, promised, Declared and enacted, in any wise, notwithstanding.*

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

LAWS MADE

At an Assembly Held at Philadelphia in the Province of Pennsylvania the 10th day of 1st. M° March 1683.

*Preamble.

The Governour and freemen of this Province, and territories thereof, in Provincial Council, and Assembly met, having taken into their most serious consideration, the present State and Condition thereof, To the end that the good beginnings, which have bin already made, may be Confirmed and built upon, for the establishment and Compleating of such a government, as may give equal Right and Justice to all men, and Suppress all impiety and injustice, and so become a terror to evil Doers, and a praise to them that do well.

These following Laws are agreed, resolved, and Enacted by the Authority of the Proprietary and Governour, with the advice and Consent of the freemen of this Province and territories thereof, in Provincial Council, and Assembly met, according to the powers of the King's Letters' patents; for the Continuation and Confirmation of the needful laws of this Province and Territories thereof.

Chap. LXIII. *Be it Enacted by the Authority aforesaid,* That all those Laws made by the Assembly held att Chester, in the tenth month last, shall stand in full force to the end of the first session of the next general Assembly, Except such Laws, or part of Laws, as are by any of the following Laws repealed, Varied, explained, or added unto.†

The laws made at Chester, tenth month, last, shall be in force to end of first session of next general assembly.

Chap. LXIV. *Be it enacted &c.* That no Freemen within this Province of Pennsylvania or territories thereof, shall be taken or imprisoned, or Dispossessed of his freeholds, or libties, or be Outlawed, or Exiled, or any other wise hurt, Damnified, or Destroyed, nor shall hee be tryed or Condemned but by the lawful Judgement of his equalls, or by the Laws of this Province and territories thereof.‡

No freemen shall be taken: imprisoned, dispossessed, outlawed, exiled, hurt, damnified, destroyed, nor tried or condemned, but by his equals, or the laws of this province.

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*Marginal notes copied from original manuscript on file in office of Secretary of the Commonwealth—See Colonial Records, edition of 1852, vol. I, page 97, where committee was appointed to inspect notes.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 38, Petition of Right, *post.*

Peacemakers to be yearly chosen in each precinct; to whom the parties differing shall sign a reference &c. The reference ratified by the county court. The peacemakers judgement shall be conclusive and the conclusion shall be registered.

Chap. LXV. *And be it &c.* That in every precinct three persons shall be yearly chosen, as Common peacemakers in that precinct, And their Arbitrations may be as Valid as the judgements of the Courts of Justice, Let the parties Differing Sign a Reference, and Submission of their matters in Controversie to men so chosen as aforesaid; Which Reference being satisfyed by the County Court, The Judgement of the peacemakers, shall be as Conclusive, as a Sentence given by the County Court, And such Conclusion to be registered in the County Courts as other Judgments are.*

In courts all may appear according to their own manner. And plead their cause by themselves or friends. And complaint to be exhibited fourteen days before trial. The defendant shall be summoned ten days before, and a copy of complaint delivered. But before complaint be received, the plaintiff shall declare their belief of the justice of his cause. The defendant not appearing, judgement shall be given against him by default.

Chap. LXVI. *Be it enacted &c.* That in all Courts all persons of all persuasions, may freely appear in their own way, and according to their own manner, and there personally plead their own Caus themselves, or if unable. by their friends; And that the first proces shall be the Exhibition of the Complaint, fourteen days before the tryal: And that the Defendant may be prepared for his Defence, hee or shee shall be Summoned no Less than ten days before, and a Copy of the Complaint Delivered him, or her, at his or her dwelling house, to answer unto; But before the Complaint of any person shall be received, hee or shee, shall Solemnly Declare in open Court, that hee or shee believeth in his or her Conscience, that his or her caus is just; And if the party complained against shall notwithstanding refuse to appear, The Plaintiff shall have Judgement against the Defendant, by default.†

Rules in holding courts.

Silence commanded then the crier shall all to draw nigh and shall be heard.

Chap. LXVII. Whereas great Respect is due from all persons, and ought always to be yeelded in Courts of Justice, whois institution is the peace and benefit of the publick, And that such gravity, and reverence which manifests the authority of a Court, may at all times appear; These following Rules shall be observed in the holding thereof: By the King's authority and in the name of the Proprietary and Governour, silence is commanded, Let the cryer make proclamation, and say, O yes, O yes, O yes, Silence is commanded in the Court, While the Justices are sitting, upon pain of imprisonment. After silence is Commanded, The cryer shall make a proclamation saying; All manner of persons that have any thing to doe, at this Court, Draw Nigh and give your attendance, and if any person shall have any Complaint to enter, or suit

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 39, Petition of Right, *post.*

to prosecute, Let them Draw near, and they shall be heard; When Silence is thus commanded and proclamation made, Upon calling the Docket, The cryer shall call, A. B., plaintiff come forth and prosecute thy suit, against, C. D., or else thou wilt be Non-Suited; The plaintiff appearing, The cryer shall call for the Defendant, C. D., come forth and save thee and thy Bail, or else judgment will pass against thee.*

Then the crier shall call, A. B., plaintiff, and prosecute, C. D., defendant. Then shall call C. D. d'f'd't. to save, his bail, else judgement will pass.

Chap. LXVIII. *Be it enacted &c.* That in every County within this Province and territories thereof, A Grand Inquest shall give their attendance, and bring in their Presentment twice a year, in every respective County Court.†

Presentments shall be brought in twice a year, by the grand inquest in each county.

Chap. LXIX. And that all possible Care and tenderness may be showen about the life of men, and to prevent Corruption, – – – *By the authority aforesaid Be it Enacted*, That in all Causes Capital, and Criminal, The freemen of the County shall be summoned by the Sheriffs, and the names of the freemen shall be writ in small pieces of paper, and put into a hat and shaken; forty eight of whom shall be drawn by a Child, and those so drawn, shall stand for the Sheriffs Returns; And the first twelve, not reasonably excepted against, shall Stand and Serve for the tryal, (viz, chap. 38.)‡

In criminals, out of the names of the freemen, writ in bits of paper, hatted and shaken; forty eight shall be drawn by a child, which shall stand for sheriffs returns. And the first twelve, not for the trial.

Chap. LXX. *Be it Enacted by the Authority aforesaid, and it is hereby Enacted*, That all actions of debt, Accompt, or Slander, and all actions of Tresspass, shall be henceforth first tryed by there respective County Court, where the Cause of action did arise.

And if any person shall think himself aggrieved with the Judgement of the County Court, That then, such person may Appeal to have the same tryed before the Governour and Council; *Provided always* that the same be above twelve lbs. And that the person appealing, do put in good, and sufficient Security, to pay all Costs and Damages, if hee shall be cast, as also to pay the Cost and Charges of the first Suit.§

All actions of debt, slander, and tresspass, first triable by the county court. And then by appeal to Governor and council if above twelve.

The appellant securing to pay all costs, if cast, of both suits.

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Repealed in the year 1684—See Chapter 155, *post.*

‡Declared a fundamental law—See Chapter 141, *post.* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

§Repealed in the year 1690—See Chapter 192, *post.*

Damages pretended to be above five pounds, but appearing to be less, the defendant shall lose his action, and pay costs. But the plaintiff may withdraw his action, and be nonsuited, paying full costs to the defendant.

Chap. LXXI. *Be it enacted &c.* That if any person shall pretend his Debt, or Damages, to be above five lbs and upon hearing thereof, it shall appear to the Court to be under that Value, In all Such Cases, The plaintiff shall lose his action, and pay the defendant and the costs. But the plaintiff shall have liberty to withdraw his action, and be Non-suited if hee See cause, before the Jury have given in their Verdict; yet so as he pay the full Cost and Charges to the defendant.*

Derogators from sentence of any court, fineable at discretion of court.

Chap. LXXII. *Be it enacted &c.* That if any person shall at any time hereafter, speak in Derogation of the Sentence or Judgement of any Court, hee or shee shall be fined for such offence, at the Discretion of that, or the next Court or Sessions.†

Mutual damages between Indians and inhabitants, tryable by six Indians and six freemen, and notice to be given to their king. Indians refusing this trial, the county court shall then punish.

Chap. LXXIII. *Be it enacted &c.* That if any Indian shall Committ any tresspass or Damage, against the person or Estate of any of the inhabitants, of this Province, or territories thereof, Notice shall be given to the king of the Indians, he relates to, that the offender be brought to his triall, And shall be tryed by six of the freemen of ye same County where the Abuse was Committed, and six of the Indians that are Nearest to that place; and if the Indians shall refuse to have him so tryed as aforesaid, That then the County Court shall impose such fine or punishment upon the offender as they shall think fitt. And if any person in this Province or territories thereof, shall at any time hereafter Commit or do any Damage or injury to any Indian, the mater shall be tryed by six of the freemen of this Province, and six of the same Indians; And the king to whom such Indians doth belong shall have notice thereof, That so he may be present and see justice done on both sides.*

All estated refusers to pay their debts, be imprisoned, they shall be at their own charge, till security or payment. But shall be prisoners till second day of next sessions after commitment: Unless

Chap. LXXIV. *Be it enacted &c.* That all persons of known estates, refusing to pay their just Debts, if arrested and imprisoned, shall be kept at their own charge, Until Security be given or satisfaction made; Provided that no person shall be kept in prison for debt or fine, longer than the second Day of the next Sessions, after his or her committ-

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 40, Petition of Right, *post*.

ment, unles the Plaintiff shall make it appear, that the person imprisoned hath some Estate that hee will not produce; In which case, the Court shall Examine all persons Suspected to be given in the Concealing such estate, But if no Estate can be found, That the Debtor shall Satisfy the debt by Servitude, as the County Court shall order, if desired by the Creditor.*

the plaintiff shall make it appear that the imprisoned hath some estate hid. In which case the court shall examine the suspected concealers thereof. And if no estate be found, the debtor shall pay by servitude, as county court orders, if decided by creditor.

Chap. LXXV. *And be it &c.* That if any man be Indicted, proved, and Judged a Common Barrator, Vexing those with Unjust and frequent suits, it shall be in the power of the Court, both to reject his Cause, and punish him for his barratry, by fine or Imprisonment.*

Barratry punishable by rejection of his suit, and by fine or imprisonment.

Chap. LXXVI. For Speedy Justice to the poor, and in small matters, *Be it Enacted &c.*, That all matters of Debt or Dues under forty shillings, shall be heard and Determined upon Sufficient Evidence, by any two Justices of the peace, of that County, where the Cause arises; And that such Justices shall report their judgment to the next County Court, and the same shall be Recorded, by the clark of the County Court, as good, and binding, if the Court approve the same.†

Debts under forty shillings determinable by two justices, who reporting their judgment to the county court, and it being there recorded, shall stand, the court approving it.

Chap. LXXVII. *Be it enacted &c.* That the Justices of each respective County Court, shall sitt twice every year, to inspect and take Care of the Estates, usage, and Employment of Orphans, which shall be called The Orphans' Court, and sitt the first third day of ye week, in the first and eighth month yearly; That Care may be taken for those, that are not able to take care for themselves.*

An orphan's court to be held, twice a year, by the justices in first and eighth months.

Chap. LXXVIII. *Be it &c.* That for avoiding long and tedious Conveyances, and the many Contentions which may arise about the Variety of Estates: All grants of Estates

Form of grants of estates, for inheritance, for life, lives, or years.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 28, 41, and 42, Petition of Right, *post*.

†Declared a fundamental law—See Chapter 141, *post*. Changed by Chapter 200, *post*. Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

shall be either of the inheritance, or for life or lives, or for years, any number not exceeding fifty years; Which Grants shall be thus contracted in these words: A. B., the &c., day of, &c., in the year according to the English accompt 168–&c., from him, and his heirs, and assigns, Grants to his &c (describe the bounds) with all its appurtenances), lying in the County of &c., Containing &c., acres, or thereabouts, to C. D., and his heirs (if in fee) or to E. F. if for his life: (if for lives); or to G. H. for one hundred years (if J. K, L. M, N, O, shall so long live); or to P. Q., for fifty years, for the consideration of &c., pounds in money paid, and of yearly rent to be paid to A. B. and his heirs and assigns, upon the &c., day of &c.; In witnes whereof hee setts his hand and seal,—seal, Sealed and Delivered in the presence of R. S. T. Acknowledged in open Court, and certified under the Clerk's hand and Court Seal, the &c, day of &c,—168–&c.; and Registered the &c., day of &c., 168–&c.*

Deeds of sale, mortgages, and conveyances, shall be acknowledged in court; and the form of possession, by delivery thereof.

Chap. LXXIX. *Be it &c.* That all deeds of sale, Mortgages, Settlements, Conveyances, (except leases for a year), shall be declared and acknowledged in open Court) And the form of possession in transferring of titles, shall be, By the party, or his Attorney Delivering the said deed of gift in open Court, into the hands of him or his Attorney to whom it is made, and that to stand good to all intents and purposes.†

Seven years quiet possession, an unquestionable title; except as to infants, married women, &c.

Chap. LXXX. *Be it enacted &c.* That seven years quiet possession of Lands within this Province or territories thereof, shall forever hereafter give an Unquestionable title; Except in Cases of Infants, Marryed Women, Lunatics or persons beyond the Seas.†

A county seal shall be in each county.

Chap. LXXXI. *Be it &c.* that there shall be a County Seal in every County of this Province and territories thereunto belonging, for the use of each respective county.†

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* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 43, 44, and 45, Petition of Right, *post.*

Chap. LXXXII. *Be it Enacted &c.* That if aine person shall be Convicted of Counterfitting the hand or Seal of any person in this Province or territories thereof, hee or shee shall Suffer three months imprisonment at hard labor, and be fined treble the value hee or shee shall have made thereby, or attempted to have made thereby.

Counterfeiters of any one's hand or seal, three months imprisonment, and fined to the value intended thereby.

And if any one shall presume to Imitate, or counterfitt, any County Seal of this Province or territories thereof, such person shall Suffer, twelve months imprisonment at hard labor, and be fined as the County Court shall see caus.

And of the county seal, twelve months imprisonment, and fined at discretion of county court.

And if any person shall presume to counterfitt the Privie-Seal, or broadseal of this Province, Every such person, shall Suffer Seven years Imprisonment, at hard labor, And be fined according to the Discretion of the Governor, and Provincial council.*

And of privie broad seal, seven years imprisonment, and fined at discretion of Governor and provincial council.

Chap. LXXXIII. *Be it Enacted &c.* That if any person shall be Drunk, or Curse, swear, speak prophanely or obscenely, such person shall be punished according to Law, by any one Justice of the peace, so as the offence be in the presence of any Officer, or Magistrate, or by the parties Confessing, on the evidence of two Credible persons. And if any Justice of the peace, or other publick officer shall be convicted of any of the aforesaid Crimes, hee shall pay double the penalty mentioned in the law thatt provide against such offenders, and be Dismissed his office.*

He that is drunk, curses, swears, speak profanely, in presence of an officer is punishable by any one justice of the peace, Any public officer guilty, as said is, shall pay double penalty in law, and be outed his office.

Chap. LXXXIV. *Be it enacted &c.* That there shall be at Least one person in every County within this Province and territories thereof, chosen and accounted by the County Court, Who shall diligently and faithfully View, and Search all such Pipe-staves as are to be transported, and be used to make tight Cask; Who shall Cast by all such, as they shall judge not merchantable, both in respect of worme-holes, not above five in each staff, and due assises, to wit; that are not in length four and one half foot, In breadth, three and a half inches, beside the Sap; In thickness three fourths of an inch, and not Less than one-half inch thick, sufficient for use; And all other Staves to be sold for Refuse.

There shall be in each county a viewer of pipe-staves.

In each of which there shall not be above five wormholes.

There size shall be
4½ ft. long.
3½ in. broad.
⅝ in. thick.

And every such viewer shall at all times upon Request, give attendance, And shall enter into a book the number of such Merchantable pipe Staves, as hee shall approve, and for whom. And if any man shall put on board any Ship or other Vessel, aine pipe staves other than shall be so Searched

The viewer shall book the merchantable, and for whom.

Pipe-staves shipped unsearched, to be perfect.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters, 41 and 46, Petition of Right, *post*.

and approved, except they should be transported for Dry Cask, hee shall forfeit the said whole parcel or Value thereof.

Viewers to have two shillings the thousand.

And the Viewer shall be allowed two Shillings for every thousand of pipe-staves, which shall be by him viewed, as aforesaid.*

No cow, calf, Ewe-lamb, to be killed for three years, under pain of five pounds.

Chap. LXXXV. *Be it enacted &c.* That if any person within this Province or territories thereof, shall within three years, kill, or cause to be killed, any Cow, Calf, or Ewe-lamb, whose dam shall not dye by casualty, Every such person shall forfeit five pounds: One half to him or her that shall Discover and prove the same, and the other half to the publick stock of the County, where it shall be killed as aforesaid.†

Killers of a dog-wolf shall have ten shillings, and of a bitch wolf fifteen shillings, out of public stock, the head being brought to a justice. Indian killer thereof, five shillings and the skin.

Chap. LXXXVI. *Be it Enacted &c.* That if any person within this Province and territories thereof (Indians only excepted), shall kill a dog-wolf, hee shall have ten shillings, and if a bitch-wolf fifteen shillings, to be paid out of the publick stock; Provided such person brings the wolf's head to one of the Justices of the peace of that County; Who is to cause the Ears and tongue of the woolf, to be cutt off; And if any Indian shall kill a woolf and bring the head and body to a Justice of the peace, hee shall have five shillings, and the skin for his pains.‡

Cattle of six months old, not marked, and if marked, and not registered, shall be deemed strays.

Chap. LXXXVII. *And be it &c.* That all sorts of Cattell whatsoever, of six months old, that shall not be Marked upon the ear. or otherwise Marked with a Brand-mark; And which mark shall not be by the owners thereof, brought to the clerk of the County Court, or such other person as shall be appointed for that purpose, and there be Registered, shall be deemed and accompted Strays.§

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 47, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡Amended in the year 1690—See Chapter 193, *post*. Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

§See Chapter 199, *post*. Law abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Chap. LXXXVIII. *Be it Enacted by the Authority aforesaid*, That henceforth every Baker shall have a Distinct mark for his bread, and keepe the true assizes, as hereafter is expressed, viz: (When Wheat is ordinarily sold for mony at these Several Rates hereafter mentioned) The Penny White Loaf by Avoirdupois weight, when wheat is by the bushel. Bakers to have a distinct mark for their bread; and shall keep the true assizes.

S.	P.	The white. Oz.	Qr.	Wheaten. Oz.	Qr.	Household Oz.	Qr.
3	6.	11	1.	17	1.	23	0.
3	6.	10	1.	15	1.	20	2.
4	0.	9	1.	14	0.	18	2.
4	6.	8	1.				
5	0.	7	3.	11	3.	16	2.
5	6.	7	0.	11	2.	15	2.
6	0.	6	2.	10	2.	14	0.
6	6.	6	0.	10	0.	13	0.
				9	2.	12	2.

Weight of bread.

And so proportionably, under the penalty of forfeiting all such bread, as shall not be of the Several Assizes afore mentioned, to the use of the poor of the town, where the offence is committed, and otherwise as is hereafter expressed.

And for the better Execution of this present Law; there shall be in every Market town, and all other towns needfull, one or two able persons annually Chosen by each town, who shall Solemnly Declare at the next County Court, or before the next magistrate, unto the faithful discharge of his or their office; Who are hereby Authorized to enter into all houses, either with a Constable or without, where they shall suspect, or be informed of any bread baked for sale, and also to weigh the said bread as oft as they see caus, and seaze all such as they shall find Defective; As also to weigh all Butter made up for sale, and brought into, or being in the town or market, to be sold by Weight, Which if found Light after notice once given, shall be forfeited in like manner. Two persons shall in each market town, be anually chosen, who shall weigh the bread, and seize the defective to poor's use. Also all butter for sale, and seize the defective.

The like penalty shall be for not marking all bread made for sale: And the said officer shall have One Third part of all forfeitures for his pains; the rest to the poor, as aforesaid. The officer to have one third of all forfeitures.

And further, to prevent fraud, That all persons within this Province and territories thereof, who shall usually sell bread within doors or without, shall at all times hereafter, have all their bread that they either put to sale or spend in their families, made of the Due assizes, Marked and yeelded to tryall of said Officer, as is Directed in the law aforesaid, Under the penalty therein exprest.* Also common bakers shall mark their spending bread &c.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Bridges shall be built over all small creeks, and in the king's road, from falls, to Sussex, within eighteen months. The highway and passages, into and out of creeks, made passable for horse and cart, at the county's charge.

Chap. LXXXIX. *And be it &c.* That Bridges shall be built over all small Creeks and Rivers (that are difficult, or apt to be high by suddain Rain), in the King's highway, from the falls of Delaware to the southernmost parts of Sussex County, within the space of eighteen months from the time aforesaid, Which bridges shall be ten feet broad and a Rail on each side; And that all trees, Stubbs, and Stumps of trees, that lye in, and cross the said highway, and all passages in and out of Creeks and branches, may be made Safe and easy both for horse and Cart, att the chairge of the respective Counties in manner aforesaid.

County court yearly in seventh month, shall appoint three overseers for highways on penalty of ten pounds. Who shall summon the inhabitants, on penalty of five pounds. Who not appearing to work shall pay twenty shillings.

And the County Court in every County shall every seventh month, yearly chose and appoint, three overseers, at least, for the highways; upon the penalty of ten pounds sterling. And Such Overseers shall summon in all their inhabitants of the respective limits, to Come in and Work at the Making of all highways and bridges therein, Upon the penalty of five pounds; And every inhabitant so Summoned as aforesaid, that Shall not appear and do his labour, shall pay to the use of the publick twenty shillings sterling.*

Boats, vessels, or canoes, taken from landing, without consent, of owner; the taker shall pay twice the value of the boat also, and one half fine to the owner.

Chap. XC. *Be it &c.* That if any person or persons Whatsoever within this Province or territories thereof, shall at any time after the Publication hereof take or carry away any Boat, Vessell, or Canoee from any person's Landing, without Leave, hee shall bee lyable to pay for such his offence twice the value of the boat, vessell, or canoee; and the boat, vessell or Canoee, Shall remain still intire to the Master or Owner, and one half of the fine shall go to the Master or Owner.†

Corn-fields shall be fenced five feet high: otherwise the owner finable by county court.

Chap. XCI. *Be it &c.* That all Corn-fields shall be fenced, and all fences shall be at least five foot high, and for Default thereof, such person shall be fined at the Discretion of the County Court.†

Fellers of a timber tree on oth-

Chap. XCII. *Be it &c.* That if any Person within this Province or territories thereof, shall at aine time after the

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 48 and 49, Petition of Right, *post*.

publication thereof, presume to Cut and fell any timber tree, upon the land of aine other person, without leave, such person shall forfeit to the Owner thereof five pounds for every such tree as aforesaid.*

er's land. forfeit five pounds to him.

Chap. XCIII. *Be it &c.* That Whosoever shall presume to sett on fire, any Woods, Lands, or Marshes, in this Province or territories thereof, before the first day of the first month yearly; They shall yearly make good all the Damages that shall thereby happen to any of the inhabitants thereof.†

Firer of woods before first of first month, shall make good all damages happening thereby.

Chap. XCIV. *And be it &c.* that there shall be no Weares made from one side of any Creek or River, to the other, And Whosoever shall be Convicted of offending herein, shall for every such offence pay ten shillings, and the weares be destroyed.*

Making of weares from side to side for each offence, ten shillings, and the to be destroyed.

Chap. XCV. *And be it &c.* That there shall be ferry-boats for men and horses, built within One year, ensuing the first Session of this General Assembly, over the Creeks; commonly called Neshaminee, Scuilkill, and Christeen, at the charges of the Countys they belong unto, to be equally Leavied upon the inhabitants thereof, according to the proportion of Land they hold, by the several Courts of Justice of their respective Countys. And the price shall be two pence a head for Carrying over every person, and with an horse, four pence, and for every led horse or other beast three-pence; The Income of which shall be equally divyded into the publick stock of the Several Counties, Which rate or price shall hold for seven years, from the date hereof.

Ferries shall within a year &c. be established over Neshaminee, Schuylkill, and Christeen, at county charges.

The price.

	Pence.
Each person,	2.
with a horse.	4.
Led horse.	3.

Dividable with the stock of the county, and the rate to hold for seven years.

Provided always that if any private person, will Undertake to provide the said places with boats at his own Charge, hee shall have the profit as aforesaid; And if any person that lives convenient for a ferry, shall refuse to keep the ferry, It shall be lawful, for another person that will, to build a house and have twelve acres of land, in such Convenient place, paying yearly for it, so much as the County Court, shall adjudge reasonable, to the Owner of the said land.*

A private person undertaking to provide the said places, shall have the profit. A convenient liver, refusing to keep the ferry, another may build, and have twelve acres of his convenient land, paying for it, as the county court shall appoint.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 50, Petition of Right, *post*.

Stealers of hogs, or other cattle, first offence shall pay treble value.

Second offence, treble value, and six months' imprisonment.

Third offence, treble value, and whipping, and banishment.

Chap. XCVI. *Be it &c.* That if aine person shall at any time, hereafter, take, steal, kill, possess, or convert to his own use, any hog, or hoggs, shoat, pig, or other Cattle, belonging to any other person, hee or shee being Convicted thereof, shall pay for the first offence to the owner treble the value thereof; and for the second offence, hee shall pay treble the value thereof as aforesaid and also suffer six months' imprisonment, at hard Labour; And for the third offence hee or shee shall pay treble ye value thereof, to the owner and be whipt with thirty nine Lashes on his or her bare back, well layd on, and be banished out of the Government, never to return again, upon such penaltie as the County Court shall think fit to lay upon such persons.*

Rum, brandy, strong waters, imported, to pay as custom, three pence per gallon.

Cider, one penny per gallon.

Other merchandise one per cent.

The contravender forfeits all goods put on shore, not entered, and custom assured.

Chap. XCVII. And to the end That The freemen of this Province and territories thereof, may in some Measure, testify their due respects, and regards to their Proprietary and Governour, in his great Care, Chairge, and Liberality to and for the benefit of the inhabitants of this Province and territories thereof: The freemen in Provincial Council and Assembly mett, as a Testimony of their gratitude and Affection, so farr as the present State and infancy of the Province will permitt, Do Unanimously intreat him to accept . . . And that it may be Enacted . . . *And be it Enacted by the Authority aforesaid*, That all Rum, Wine, Brandy, and Strong-waters that shall be imported into this Province, or territories thereof, shall pay to the Proprietary and Governour, as a Custom, Two pence by ye gallon; And all Syder that shall be imported as aforesaid shall pay One penny by ye gallon; And all other goods imported as aforesaid shall pay after the Rate of twenty shillings for every hundred pounds Worth of goods, imported for merchandise or traffique, as aforesaid, (molasses only excepted). And if any person shall Land from aboard any Ship or Vessel, before duly entered and the Custome assured to be paid, Shall forfeit all such goods; The one third part thereof, to the Governour, and one third to the public, and one third part to him that shall discover and prove the same.†

Custom on Pence.
A hide. 12
Beaver skin. 9

Chap. XCVIII. *And be it &c.* That all persons that shall Export any hydes, Beaver-skins, Deer-skins, or aine peltry Whatsoever out of this Province or territories thereof, to any places (England only excepted), shall pay the Several Sums as is hereunder expressed, That is to say; A Steer, Bull, or Cow hyde shall pay twelve pence; A Beaver-skin

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 51, Petition of Right, *post.*

† Repealed in the year 1690—See Chapter 192, *post.*

shall pay nine pence; All peltry to the value of a beaver, nine pence; For every pound weight of Deer Skins, one half pence; And whosover shall be found to Export any of the aforesaid Skins, contrary to the true meaning and intent of this Act, shall forfeit to the Governour one third of those skins not duly entered, and one third more to the Discoverer.*

Peltry to value. 9
Pound deer skin. ½.
The contravener, shall forfeit, one third to the governor, and one third to discoverer.

Chap. XCIX. *And be it &c.* That no person within this Province or territories thereof, shall presume to keep an Ordinary without Licence first obtained of the Governour, to the end that all travellers and such as are not house-keepers may be reasonably accommodated in places where Ordinaries now are, or shall hereafter be kept, No such keeper of an Ordinary shall Demand above seven and one half pence a meal by the head; which meal shall Consist of beef or pork, or such like produce of the Countrie, and Small beer; And of a footman, hee shall not demand above two pennies a night for his bed; And of a horseman nothing, hee paying six pence a Night for his horses hay or grass; And in case any person shall keep an Ordinary without licence, such person shall forfeit five pounds. And if any One shall presume to ask more than is herein exprest, shall forfeit five shillings for every such offence.†

None shall keep ordinary without license, under pain of five pounds.

Nor shall demand above seven and one half pence a meal.

Nor above two pence a night for a foot man's bed.

Nor of a horseman anything; he paying six pence for hay; under pain of five pounds.

Chap. C. *Be it &c.* That each County Court of this Province and territories thereof, shall appoint and settle Sufficient Cart-ways to the most Convenient Landing places, in their Respective Countys, for publick use and benefit.‡

There shall be in each county, a cart way to a landing place.

Chap. CI. *Be it &c.* That every County within this Province of Pennsilvania and territories thereunto belonging, Shall before the last Day of the tenth month, next ensuing, at their own Cost and Charge, erect, build or cause to be built in the Most Convenient place in each County, respective, a sufficient house, at least twenty foot square, for Restraint, Correction, Labour and Punishment of all such persons as shall be thereunto Committed by law; And that every County

A prison twenty feet square, shall be built in each county by last of tenth month, under pain of forty pounds, at the county's charge.

* Repealed in the year 1690—See Chapter 192, *post.*

† Repealed in the year 1684—See Chapter 155, *post.* Another law on the subject passed the same year—See Chapter 169, *post.*

‡ Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 52, Petition of Right, *post.*

fayling herein shall forfeit and pay forty pounds, to be Levyed on the goods and Chattels of the Inhabitants of such County.*

All measures to be according to old England standard.

A bushel to be eight gallons, Winchester.

All weights to be avoirdupois, i. e. sixteen ounces to the pound; gold and silver excepted.

Chap. CII. And to prevent fraud in Measures, and to Reduce all forreign measures here to the English Standard, *Be it &c.*, That the Measures of this Province and territories thereof, shall be according to the Standard of Weights and Measures in England, That is to say, A Bushell shall contain Eight Gallons, according to the Winchester measure: And all weights to be Averdupois, which hath sixteen ounces to the pound, (Gold and Silver, only excepted), within three months after the first Session of this General Assembly.*

Liquors or provisions exported or sold here, in any cask, or vessel, not gauged and its measure not marked, forfeitable.

Chap. CIII. *And be it &c.* That if any person shall, after the twenty fourth day of the fourth month, Export from, or sell within this Province or territories thereof, any Liquor or provision in any Cask, or Vessel, that is not gaged, and its Measure Marked, by an allowed gager in this Province &c., he shall forfeit the same.†

Hemp and flax shall be current; hemp at four pence, and flax at eight pence per pound.

Chap. CIV. *Be it &c.* For the Encouragement of all the Inhabitants of Pennsilvania and territories thereunto belonging, to Sow, prepare and well dress, hemp and flax, therein for the marchant, That such hemp, shall be Current pay, betwixt Man and Man at four pence per pound, and such flax at eight pence per pound.†

No horse after two years old, is to run at large, under 13¼ hands, (four inches to the hand), high under pain of five pounds.

Chap. CV. *And be it &c.*, That no person in this Province or territories thereof, shall from and after, the tenth day of the eighth month next ensuing, suffer any Stone horse to run at large after two years old, under thirteen and one half hands high, four inches to the hand; upon the penalty of five pounds.‡

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 53 and 54, Petition of Right, *post.*

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡Repealed in the year 1684—See Chapter 155, *post.*

Chap. CVI. *Be it &c.* That all Provisions brought in from any other place into this Province or territories thereof, West Jersey only excepted, That shall be exposed to sale, shall not be bought by any person until the same hath been here, at Least five days; To the end that those that Live remotely may have Notice thereof, and be supplyed as well as others neer at hand; And if any person so bringing any provision as aforesaid, Shall presume to sell it, before it hath bin here for that time, such person shall forfeit double the value thereof.*

Provisions imported, except from West Jersey, not to be sold till here five days; under pain of forfeiting double value.

Chap. CVII. *Be it &c.* That if any person within this Province or territories thereof, shall Expose to sale any corn att the Common price, that is not Clean Drest from Dust, Chaff and such like trash, hee or shee shall pay for every such offence five shillings.†

Corn sold at common price, and not clean dressed; the seller to forfeit five shillings.

Chap. CVIII. *And be it &c.*, That every person intending to depart or leave this Province or territories thereof, shall publish his or her intention in writing, affixed to the door of the County Court, where hee or shee inhabits, thirty days before his or her Departure, and shall have a pass under the County Seal; And if any Master of Ship or Vessel or others, shall presume to Convey or transport any person out of this Province, or territories thereof, without such pass, Shall pay all the Damages that shall happen thereby.‡

The intentions of departers this province, shall be affixed on the county court house door, thirty days before departure; and shall have a pass; and transporters of any; without a pass must pay the damages.

Chap. CIX. *And be it &c.* That whatsoever Estate any person hath in this Province and territories thereof, att the time of his death; Unless it appear that an equal provision be made elsewhere, shall be thus Disposed of, That is to say, One third to the wife of the party deceased, One third to the Children equally, and the other third as he pleaseth; And in case his wife be Deceased before him, two thirds shall go to the children equally, and the other third disposed of, as hee shall think fit, his debts being first payd.†

Estates of diers shall thus be divided; one third to wife; one third to children equally; and one third as he pleaseth. If wife die first: two thirds to children and one third as he pleases.

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*Repealed in the year 1690—See Chapter 192, *post.*

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 55, Petition of Right, *post.*

Estate of an intestate shall go to wife and children.

Then to brothers and sisters or their children ½ to the parents & ½ to next of kin ½ to governor ½ to the public if claimed in three years.

Chap. CX. *Be it &c.* That the Estate of an Intestate shall go to his wife, his child or Children; And if hee leaveth no Wife, child nor children, it shall go to his brothers and sisters if any be; or to the children of such brothers and sisters; And in case no such be, One half shall go to the parents and ye other half to the next of kin. And for want of parents, One half shall go to the Governour, And for want of kindred, the other half to the publick, Provided allways, that the time of clayming exceede not three years after the Death of such intestate.*

Executors and guardians shall give bond of administration; to be in force till legally discharged.

Chap. CXI. *And be it &c.* Thall Executors and Guardians to persons under age, shall give sufficient Bond to the Court of Justice in the precinct where they Live, faithfully to Discharge their Trust; And that the said Obligations shall stand in full force and virtue, till they have passed their accompts in Court, and are legally Discharged; And if any man shall refuse this honest Care and Charge in the government, Unless hee hath five children to take care of, or is already executor to one Will, or hath persons nearer related to him, who in all likelihood will impose that Charge upon him; hee shall be fined at the Discretion of the Governor and Provincial Council; who shall appoint one to Administer in the Room of such person, to the end expressed in the will of the Testater.†

Children shall be taught to read and write by twelve years of age.

And shall then be trught some useful trade.

Under pain of five pounds to be paid by the parent of such child.

Chap. CXII. And to the End that Poor as well as Rich may be instructed in good and Commendable learning, Which is to be preferred before wealth, *Be it &c.*, That all persons in this Province and territories thereof, having Children, and all the Guardians or Trustees of Orphans, shall cause such to be instructed in Reading and writing; So that they may be able to read the Scriptures; and to write by that time they attain to twelve years of age; And that then they be taught some useful trade or skill, that the poor may work to live, and the rich, if they become poor may not want; Of which every County Court shall take care; And in case such parents, guardians, or overseers shall be found deficient in this respect, every such parent, guardian or overseer, shall pay for every such Child, five pounds, Except there should appear an incapacity in body or understanding to hinder it.†

*See Chapter 172, *post.* The law abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Chap. CXIII. Whereas the Governour may on many occasions be Disappointed of true and speedy information of publick affairs, as well from Europe, as the Neighboring Colonies and remoter parts of this Province and territories thereof; For the prevention of all such inconveniencies for the future, *Be it &c.*, That every Justice of the peace, Sheriff, or Constable, within the respective Counties of this Province and territories thereof, to whose hands or knowledge any Letter or Letters shall come, Directed to or from the Governour, shall Dispatch them within three hours at the furthest, after the receipt or knowledge thereof, to the next Sheriff or Constable, and so forwards as the letters Direct, upon the penalty of twenty shillings, for every hour's Delay; And in such Cases all Justices of the peace Sheriffs or constables are hereby empowered to press either man or horse for that Service, allowing for a horse or man, two pence by ye mile, to be paid out of the public stock.*

Each justice, sheriff, or constable shall dispatch all letters to, or from, the governor, within three hours, to the next sheriff under pain of twenty shillings each hours delay.

And are empowered to press man and horse at two pence per mile.

Chap. CXIV. *Be it &c.* That if anie person Shall presume to buy any Land of the Natives, in the Limits of this Province or territories thereof, without Leave from the Proprietary and Governour thereof, or his Deputy; such person shall Lose the said Land, and pay at the Rate of ten shillings, for every one hundred acres thereof, to the Governour or his Assigns.†

No land to be bought of the natives, without governor's leave under pain of losing it. and ten shillings for each one hundred acres.

Chap. CXV. *Be it &c.* That every person from time to time, inhabiting or residing within this Province or territories thereof, and all such as have, or hereafter shall have any estate of Land, and be at any time in person within the Said Province or territories thereof, Shall promise Allegiance to the King and fidelity and obedience to W^m^ Penn Proprietary and Governor, and to the Laws of the government of this Province and territories thereof, according to the King's Letters patents; And if any person shall refuse so to do, where Duly administered unto him by the Governour, his Deputy, or one of the Justices of the peace, of any County in this Province or territories thereof; That every such person so Refusing, Shall forfeit all his Right and title to, and in the said Land.*

All persons, land owners, residing here, shall promise allegiance to the king, and fidelity and obedience to the governor and his laws.

The refuser shall forfeit his land.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 56, Petition of Right, *post.*

Willful neglect to serve in provincial council or general assembly, punishable, five shillings each days neglect.

And the governor in case of such neglect, may call such other members as he pleases.

Chap. CXVI. *Be it &c. And it is Unanimously agreed, Enacted, and Declared by the same*, That if any person that is, or shall be chosen and elected by the freemen of this Province and territories thereof, to Serve either in Provincial Council, or Assembly, Shall wilfully neglect to come to the place appointed by the Governour and Provincial Council to give their attendance to serve in that Capacity, That then every such person shall be lyable to pay five shillings for every day's neglect as aforesaid; And to the end no such Neglect shall be prejudicial to the public, the Governour may from time to time Call to Council Such other members, thereunto belonging as hee shall see Convenient any thing in any other Law, act, or Charter to the Contrary in any wise notwithstanding.*

Manslaughter punishable according to nature of fact; Life and one half of estate excepted; and the most akin to the killed shall be considered in the loss.

Chap. CXVII. *Be it &c.* That all persons guilty of man's-Slaughter, Shall be punished according to the nature, and Circumstance of the offence, in the judgment of the Court, before whom such offences are Cognizable, Life and one half of the estate excepted, and the person or persons next akin shall be Considered in the Loss, by the Death of the party killed.*

Premeditated killing, or accessory to the death of any other, shall be death. And one half estate shall go to wife and children to next of kin to third degree. And the other half, to whom the governor pleases.

Chap. CXVIII. *Be it &c.* That if any person within this Province, or territories thereof, Shall wilfully, or premeditately kill another person, or wilfully or premeditately, be the cause of, or accessory to, the Death of any person, Such person Shall, according to the law of God Suffer Death; And one half of his Estate Shall go to his wife and Children; And if no Wife nor children, then to the next of his kindred, not Descending Lower than to the third Degree; to be Claimed within three years after his Death; And the other half of his estate to be Disposed of, as the Governour shall see meet.†

Threatenors to wound &c. others, to be proceeded against accord-

Chap. CXIX. *And be it &c.* That whatsoever person shall threaten another to wound, kill or destroy him or harm him in his person or estate, And the person so threatened Shall

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 57, Petition of Right, *post*.

Solemnly Testify as in the Sight of an All seeing God, that hee hath ground given him to believe that from such threatening hee is in Danger to be destroyed or harmed, either in body or Estate; Every such person so threatening as aforesaid shall be bound over with two Sufficient Sureties to appear at the next Sessions of the County Court, to be holden for such respective County, and so to be proceeded against according to Law, and to be bound to the peace or good behaviour.* ing to law, and to be bound over to the peace, or good behavior.

Chap. CXX. *Be it &c.* That if any Single man Commit fornication with any Single woman, hee and shee shall be punished, either by enjoyning Marriage, or fine, or Corporal punishment, or all or anie of these, according to the Discretion of the County Court, before whom it shall be proved.* Single fornication to be punished by marriage, fine, or corporal punishment.

Chap. CXXI. To the end that the Exorbitancy of the tongue may be bridled and Rebuked, *Be it &c.*, that every person Convicted before any Court or Magistrate for Rayling or Scolding; Shall Stand one whole hour in the most public place, where Such offence was Committed, with a Gagg in their mouth or pay five shillings.* Railers and scolders shall be gagged, or pay five shillings.

Chap. CXXII. *Be it &c.*, That every Old England Shilling Shall pass for fifteen pence; And all Old England money, after the same proportion; And all New England money, at the value it is coyned there; And all Spanish money called pieces of Eight, att six shillings, and the Lesser coyne after the Same proportion, (Which value Shall from and after the Date hereof, be reputed and received for Sterling money in this Province, and territories thereof; And that all Bargains to pay the said money at other rates Shall be void, and of none effect; always provided that Perues pieces shall pass for five shillings and eight pence and no more.† Old England money shall pass at twenty five per cent advance. New England money at New England value. Pieces of eight at six shillings. Perues pieces at five shillings and eight pence.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 58, 59 and 22, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Fees payable in money or country growth.

Chap. CXXIII. *Be it &c.* That all fees by law established in this province, and territories, Shall be payd in money or value thereof in Country growth or produce, at Current price.*

Guineas shall pass at Carolluses. Jacobuses. Pistoles. Duckets. and six pence.

	£.	s.
	1.	7.
	1.	10.
	1.	12.
	1.	00.
		11.

Chap. CXXIV. *Be it &c.* that all Guineas Shall pass in this Province and territories thereof at twenty seven shillings a piece; Caroluses at thirty shillings a piece; Jacobuses at thirty-two shillings a piece Spanish Pistoles at twenty shillings apiece; Duckets at eleven shillings, and six pence; and other gold proportionately.†

Bills assigned by the creditor under the county seal, valid to the assigned.

Chap. CXXV. *Be it &c.* That all Bills and other Specialties that Shall be assigned under the hand of the Creditor, and Seal of the County, The same shall be as good in Law to all intents and purposes to the Assignee, as it was before to the Assignor.*

Bills returning from Europe protested, the drawer shall pay for damages.

Chap. CXXVI. *Be it &c.* That if any person within this Province, or territories thereof, Shall Draw Bills of Exchange upon any person in England, or other parts of Europe, and the said Bills shall be returned back unpayed with a legal protest; The drawer and all others Concerned Shall be Lyable to pay the Contents of the said Bill, together with 20 ℔ cent advance for the damages thereof, and so proportionately for greater or smaller sums, in the same specie as the bills were drawen.*

Public charge in each county to be made up, in open court, by the magistrates.

Chap. CXXVII. And to the end that Due provisions be made to defray the requisite Charges incident to the publick business and service of this Province and territories thereof, *Be it Enacted by &c.*, That the Charges of each County shall be made up in open Court by the respective Magistrates thereof, And that every such Court Shall have, and hereby

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 26, 60, and 61, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

hath power to Assess and lay such taxes upon the County as shall Defray the same, so that it be equall and according to proportion; And that the one half of the said tax to be paid, shall be raised upon land, the other half by the poll, on the Male from Sixteen, to Sixty years of age And that all such persons who hold land within the said Province and territories thereof, and doe not reside therein, and so Uncapable of giving that attendance and yeelding that Service to the publick as those that live therein, shall pay to all publick taxes for such lands so held by them, one half more than Residents pay for the same proportion.*

And defrayable by assessment thereof.

The one half to be raised on land; the other half by poll, on the males, from sixteen to sixty.

Non residents shall pay one half more than residents.

Chap. CXXVIII. And to the end that the requisite Charges of the government may be Defrayed, and that persons thought fit to Serve the publick therein may in some Measure be Supported and encouraged, to Discharge their trust with care and Diligence. *Be it &c.* That every Member chosen or to be Chosen to serve in Provincial Council, shall be, and is hereby allowed three shillings and six pence by the Day, during his attendance; And every member chosen, or to be chosen to Serve in Assembly, shall have and is hereby allowed three shillings by the Day, during his attendance on the service of the Assembly, and the speaker of the said Assembly three shillings and six pence by the Day, During the time the Assembly shall Continue together; And that each Member of the Provincial Council, and Assembly aforesaid shall be allowed towards their travelling Charges, at the rate of two pence a mile, both going to, and coming from the place where the Provincial Council and Assembly is or shall be held.*

Each provincial councilman shall have three shillings six pence per diem.

Each Assembly man, three shillings per diem.

And two pence per mile for travelling charges.

Chap. CXXIX. And that there may be a Certain Establishment of all Fees to be paid by the inhabitants of this Province and territories thereof, to the respective Officers of the Government therein, *Be it Enacted by the Authority Aforesaid*, That the governours secretarie's Fees, . . . shall be, . . . viz:

Fees.

The governor's secretary's fees.

	shil.	pen.	
A General Commission of the Peace,	5	. .	For,
A Single Commission,	1	. .	
Registering every head that Comes free into this Province,	.	. . 6	
Entering every ship or vessel not belonging to any port in this Province from twelve ton to sixty,	5	. .	

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

		S.	P.
	Every such ship or vessel above sixty tons per ton,		
For	Clearing every such ship or vessel, ye fee as aforesaid,		1
	Entering or Clearing any such ship or vessel belonging to this Province or territories, from fifteen to one hundred tons,	2	
	Entering or clearing any such ship or vessel above one hundred tons,	5	

The master of the roll's fees. **The Master of the Rolls his Fees.**

	Recording the Laws and statutes of ye Province in parchment, and in a fair, easy and Close hand for every Line one half pence to be paid by the publick With the parchment.	Line.	½
For	Recording Proceedings and Judgments of Courts, that are to be recorded in his office, and for Recording Deeds, Conveyances, Settlements; Mortgages, bonds, bills, Specialties, Leases, Bargains and Sales, which appertain to the Rolls office, hee shall have for every line one pence, hee finding paper or parchment.		1
	A copy of any Records for every line as it stands recorded.		1½
	Searching any Roll or record, or ye mater thereof.	1	6

The treasurer's fees. **The Treasurer's Fees.**

		S.	P.
	Every Warrant,	1	
For	Receiving and paying all public moneys or value thereof in goods twelve pence per pound.	1	
	Every Receipt above five pounds,	1	
	Registering every Acquittance received.		6

The provincial secretary's fees. **The Provincial Secretarie's Fees.**

		S.	P.
	Every Bill finally prepared and Engrossed by the line		1
	Every Proclamation	5	
For	Every Declaration,	5	
	His fees in all Causes that shall Come before the Provincial Council, double the fees of the Clerk of the County Court.		

The coroner's fees. **The Coroner's Fees.**

		S.	P.
	Viewing A Dead Body	10	
	A Warrant to Summon the Inquest	2	
	Entering the Verdict of the Inquest	1	
For	Returning the Inquest	1	
	To the Inquest pr man	1	
	Arresting a Sheriff	3	
	Or for any other hee arrests for the Sheriff	3	

The clerk's fees, of each county court. **The Clerk's Fees of Each County Court.**

		S.	P.
	A Writ of Arrest, Attachment or Summons.	1	6
	A Return thereof.	1	

	S.	P.	
Recording and Entering a petition.	1	.	
A Copy of the same.	.	6	
Fileing a Declaration.	1	3	
Recording the Answer.	1	.	For
Entering the Action for tryall.	.	7½	
Taking an Evidence.	.	6	
A Copy thereof.	.	6	
A Copy of a Declaration.	1	.	
A Copy of the Answer.	1	.	
Withdrawing an Action.	1	.	For
A Warrant to Summons a Jury.	1	.	
Entering their Verdict.	.	7½	
Entering judgment of Court.	2	.	
A Copy thereof.	.	7½	
A Copy of an Order of Court.	.	7½	
An Execution.	1	3	
A Copy thereof.	.	6	For
A Certificat.	1	.	
A hue and Cry,	1	.	
A Pass.	.	6	
A Reference	1	.	
A Copy thereof.	.	6	
Entering Cattle's Ear and Brand Marks.	.	7½	
An Appeal.	2	.	
Bargains and Sales of houses and lands.	2	.	

The Constable's Fees.	S.	P.	The constable's fees.
Serving A Warrant, besides one penny a mile for going and coming	1	.	
The Constable of the place, where the County Court attends, for each caus	.	6	For

The Register's Fees.	S.	P.	The register's fees.
Registering every Birth.	.	6	
Writing a Marriage Certificate in parchment.	2	6	
Registering the Death of any person.	.	4	
Registering the Marriage of any person.	1	.	
Registering the Name of each Servant, the time of his Service and day of payment or freedom.	.	6	
Registering a Will.	3	.	
Registering a Letter of Administration.	5	.	

The Fees of the Justices of the Peace.	S.	P.	The fees of the justices of the peace.
A Warrant of Appearance to Answer all Actions att the Court.	1	6	
A Warrant of Appearance before a Justice of the peace.	.	7½	
Binding Over to the Court, or Good Behaveour	1	3	
Upon plaint or Damage or Debt	1	3	
Upon Common Actions	1	.	
Upon Summons of each person	.	6	
To the Bench for every caus towards their Charges of attendance.	2	6	
To the Bench for an Appeal.	5	.	

The sheriff's fees.

The Sherrif's Fees.	S.	P.
An Arrest, Attachment or Summons	2	.
Every Bail-Bond.	1	.
Every person arrested that wants bail, or is not Bailable, and brought to prison.	2	6
Serving an Execution, for every pound.	.	6
Summoning a Witness.	1	.
Non Appearance.	.	6
Every Jury Returned.	1	6
Calling the Jury in every caus.	1	.
Every caus in Court.	1	.
The Release of ye prisoner.	2	6
Every Verdict.	.	6
Every person Returned to serve upon an Inquest at Court shall have in every Caus hee Serves upon per man.	.	8
Every witness Summoned to give his Evidence in a Caus shall have per Diem.	2	.

*

Ships shall enter within forty eight hours, and give bonds according to law; under pain of forfeiture of ship and cargo.

Chap. CXXX. *Be it &c.* That every Ship or Vessel that comes Into this Province or territories thereof, shall within forty eight hours after arryvall make Due entry, And if any master of such Ship or Vessel, shall presume to break bulk before such Due Entry be made of Ship or Vessel and Cargo and bonds given according to Law, such ship or Vessel and Cargo shall be forfeited, one third to the Discoverer, and two thirds to the Governour.*

No injury to be done to ships' goods or persons, ship-wrecked; but shall be relieved and preserved from spoil.

Wherein justices, and high sheriffs, and constables are to be vigilant.

Who are to repair to the places, and order therein, &c.

Who are to be paid therefor.

Chap. CXXXI. *Be it &c.*, That if any Ship or Vessell shall at anie time suffer shipwreck, upon any of the Coasts of this Province or territories thereof, there shall be no injury or wrong offered or done to any of their persons or goods; But their persons shall be Relieved and harboured and their goods preserved from Spoil and embezzlement; And all Justices of the peace, high sherrifs, and Constables, are hereby Strictly Charged and required to be Vigilant herein; And upon notice given of any such Distress within any of their precincts, to repair to the place, and give good Order therein, for the Relief of the persons and security of the goods, until notice be given to the Governour and Council, who will proceed therein, according to law, and cause full Satisfaction to be made to such as have imployed their time and labour, to the preserving such persons and goods.*

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Chap. CXXXII. To the end that no Mariners shall be Arrested to hinder their Voyage, *Be it Enacted &c.* That no person, Ordinary keeper or other, within this Province or territories thereof, Shall trust any Mariner, without the master of the ship or vessel, (to whom such mariners belong), engage for the same, Otherwise to lose what they so trust.*

None shall trust mariners, except their M. E. engage for the same, under pain of losing.

Chap. CXXXIII. And to prevent Clandestine, Loose, and unseemly proceedings in this Province and territories thereof, about marriage, *Be it &c.* That all marriages not forbidden by the law of God, shall be encouraged; But the parents and guardians shall be, if possible, first Consulted; And the parties clearnes from all other engagements assured by a Certificate from some Credible persons where they have lived; And by their affixing of their intentions of Marriage on the Court, or Meeting-house Door of the County where in they Dwell, one Month before the solemnizing thereof; And their said marriage shall be solemnized by taking one another as husband and wife, befor Sufficient Witnesses; And a certificate of the whole under the hands of parties and witnesses, (at least twelve,) shall be brought to the Register of the County, where they are Marryed, and be Registered in his office.

And if any person shall presume to Marry or to join any in Marriage Contrary hereunto, such person so Marrying shall pay ten pounds, and such person so joining others in Marriage shall pay twenty pounds.†

All marriages not forbidden by Moses to be encouraged.

But parents and guardians to be first consulted.

And the parties' clearness assured by certificate.

And by affixing their intentions on county court house door, one month before solemnising. Which shall be by taking one another as husband and wife before witnesses twelve.

And a certificate of the whole by parties and witnesses; shall be registered, &c.

The marryer otherwise shall pay ten pounds, and the joiner in marriage twenty pounds.

Chap. CXXXIV. *Be it &c.* That Unknown persons shall not presume to travell or go without the limits of the county wherein they reside, without a pass or Certificate under the seal of that county, And in every county where such persons shall come he shall renew his pass; And that every person offending herein, shall be lyable to be apprehended and sent back to the place from whence hee or shee came, at his or her proper Costs and Charges, to be levyed on the goods and Chattels of such offenders, by way of Distress and sale, if hee or shee be able, Or otherwise to be answered by the Master or Mistress of such offenders, Always provided, *And it is hereby Enacted and Declared*, That every person that comes out of anie other province, without the pass of the province,

Unknown persons, travellers must have a pass; under pain of being apprehended and sent back again at their own cost, &c.

Also comers out of another province, without its pass; serviceable

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 62, Petition of Right, *post.*

† Declared a fundamental law—See Chapter 141, *post.* Repealed in the year 1684—See Chapter 155, *post.* Another law on the subject passed the same year—See Chapter 166, *post.*

in house of correction. full notice to the master and mistress charge.

such person belongs to, shall be apprehended, and secured in the house of correction, where hee or shee shall labour for his or her sustainance, till notice can be given to the master or mistress of the said Servants; And till such house of Correction be erected, The Sheriff of each County shall take care to secure the said Servant; And what chairges such servant shall Occasion, more than his or her work will Defray shall be made good by the master or mistress of such servants, And such master and mistress shall over and above give to such persons as shall take them up, twenty shillings for their reward.

And paying twenty shillings to the taker up.

Servants not to be sold out of province.

It is further Enacted by &c., That no master, or mistress, or freeman, of this Province or territories thereunto belonging, shall presume to Sell or Dispose of any servant or servants into any other province, that is or are bound to serve his or their time in the Province of Pennsilvania, or territories thereof, Under the penalty, That every person so offending, shall for every such Servant so sold, forfeit ten pounds, to be levied by way of distress and sale of their goods.*

The assigner of a servant to another, without consent of two justices, shall forfeit ten pounds.

Chap. CXXXV. *Be it Enacted by the Authority aforesaid*, That if any person within this Province or territories thereof, shall Assign or Turn over any servant to anie person Whatsoever, without the knowledge of and consent of two Justices of the peace, such persons shall forfeit ten pounds.*

No servant, white, or black, attachable for debts.

Chap. CXXXVI. *Be it &c.* That no Servant white or black, within this Province and territories thereunto belonging, shall at anie time after publication hereof be Attached or taken into Execution for his Master or Mistress debt or debts, To the end that the means of Livelyhood may not be taken away from the said Master or Mistress.*

No servants to be harbored longer than twenty four hours, under pain of five shillings per day to the owner.

Chap. CXXXVII. *Be it &c.* That if any Inhabitant within this Province or territories thereof, shall at any time hereafter, Conceal, Entertain, or harbour any Servant belonging to this Province or else-where for the space of twenty-four hours and not make the same known to one of the Justices of ye peace of that County, within the time aforesaid, Every

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 63, 64, and 65, Petition of Right, *post*.

such person shall for that his offence be lyable to pay the owner of such servant five shillings, for every day that such Servant shall be concealed, entertained or harboured as aforesaid.*

Chap. CXXXVIII. *Be it &c.* That no person shall at any time hereafter within this Province or territories thereof, Give, trust, sell or dispose of any of his or her Master, mistress, or Dame's, goods to any person, without the consent of the said Master, Mistress, or Dame; And if anie person shall at any time hereafter, take, receive, or possess goods of any kind whatsoever from anie Servant as aforesaid, Such person shall, for such offence be lyable to pay to the owner of such Servant, Double the value thereof, And Return the said goods to the owner again, or the value thereof.* The taker or possessor of any goods from a servant, shall pay to the owner, double value and return the said goods or value.

Chap. CXXXIX. *And be it &c.* That every Servant brought into this Province or the territories thereunto belonging, without Indenture or Covenant for the time of their service, Every such Servant being seventeen years of age or upwards, shall serve five years; And all those that shall be under seventeen years, of age, shall serve till they Come to the age of twenty-two; of which age each respective County Court wherein they do Reside, shall be their proper Judges. And every Master or Mistress shall be bound to bring such Servant or Servants within three months time after their arrival before the said Courts, to be adjudged, as aforesaid; And shall then and there oblige themselves to pay unto every Servant, at the Expiration of their time One new Sute of apparell, ten bushels of Wheat or fourteen bushels of Indian-corn, one Ax, two howes one broad and another narrow, and a Discharge from their Service.† Servants not indented, of seventeen years of age, shall serve five years. Under seventeen, to twenty two. County court judge thereof. Masters to be bound to bring such within three months, to be adjudged. And shall be bound to give at the end of their time viz: 1 new suit 10 bu. of wheat. 1 ax, two hoes, and a discharge.

Chap. CXL. That whereas Divers Misdemeanors have been heretofor and of late time Committed by Several persons inhabiting this Province and territories thereof, that by a strict prosecution of the Law may be Liable to Corporal punishment, or fines to the Governour for the same. And because the present Proprietary and Governour is favorably pleased Act of Indemnity.

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 66 and 67, Petition of Right, *post*.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

to express his inclination to Mercy: And by an Extraordinary Clemencie to teach such offenders to mend their Lives, and all others to behave themselves with kindness and forgiveness towards each other, That an Unanimous foundation for peace and an Amicable Understanding may be layd among the Inhabitants of this Province and territories thereof, *Be it Enacted by the Authority aforesaid*, That such persons shall not hereafter be fined, punished or brought to tryall for any crime, or fault penall that they have Committed or Done, before or since, the time of the arrivall of the present Proprietary and Governor in this Province, Treason against the King and Murther only excepted.*

Treason and murder only excepted.

The laws fundamental.

Chap. CXLI. Whereas in all Governments, there are some laws more essentially requisite to the Well being thereof, Upon a Serious Consideration of those laws which have bin made in this Province, since the arrivall of the Proprietary and Governour, It is in a more Especial manner thought fitt that it be Enacted *And it is Enacted* by the Proprietary and Governor, with the advice, and Unanimous Consent of the freemen of this Province and territories thereof, in Provincial Council, and Assembly mett, that these following Laws, that is to say:

The law of

	Law.	Page.
Liberty of Conscience.	1.	6.
A Freeman.	64.	29.
Liberty and Property.	59.	21.
Naturalization.		3.
Election of Representatives.	57. 58.	20. 21.
Taxes for a year.	59.	21.
Open Courts, and freedom of plea therein	66.	30.
Giving of Evidence.	36.	15.
Returning of Inquests, &c.	38. 69.	16. 31.
Judgment by Inquest, &c.	. .	.
Bail, or Liberty of person.	52.	19.
Registry.	44. 47.	17. 18
Marriage.	133.	57.
For Speedy Justice.	76.	34.
That the Laws be in English. . . .	. . .	. . .
. . . . .	. . . .	. . . .

shall be Reputed and held, and are hereby Reputed and held, for Fundamentall in the government of this Province and territories thereof; And that this, nor any of those Laws aforesaid, shall be Altered, Diminished or Repealed in whole or part, without the Consent of the Governour his heirs or Assigns and six parts of seven of the freemen of this province, or territories thereof, in Provincial Council, and Assmbly met.*

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Chap. CXLII. Because where there is no Law, there is no Transgression, *Be it Enacted by the Authority aforesaid*, That the laws passed in this or any other General Assembly, shall be published within one week, after the said law shall Come to the hands of the president or Clerk, of the Court of each County in the most noted place thereof; And all Laws past this Generall Assembly, or that shall pass any other Generall Assembly, (such only excepted in which the time of their beginning to be in force, is particularly expressed,), Shall begin to be in force from such publication, as aforesaid.

Laws shall be published.

And shall be in force, from such publication.

And be it further Enacted by the Authority aforesaid, That all laws past this Generall Assembly, (the act of Indempnity, and Law of fundamentalls only excepted), Shall Continue in force, till the publication of the Laws to be past next after the first Sessions of the next Generall Assembly, and no longer.*

And shall be in force till after the publication of laws to be passed next after the first sessions of next general assembly.

THE FRAME OF THE GOVERNMENT Of the Province of Pennsilvania and Territories thereunto annexed in America, 1683.

William Penn's Charter to The People.

To all persons to whom these presents may come, Whereas, King Charles the Second, by his Letters Patents, under the great seal of England, bearing date the fourth day of March, in the thirty and third year of the king Annoq Domi 1681, for divers considerations therein mentioned Hath been gratiously pleased to give and grant unto me, William Penn by the name of William Penn Esquire, son and heir of Sir William Penn deceased, and to my heirs and assigns for ever all that tract of land or province called Pennsilvania, in America, with divers great powers, preheminencies, royalties, jurisdictions and authorities, necessary for the well being and government thereof. And whereas, the Kings dearest brother James, duke of York and Albany, &c., by his deeds of feofment under his hand and seal, dulie perfected, bearing date the foure and twentieth day of August, one thousand six hundred and eighty and two, hath been also pleased to give and grant unto me W^m^ Penn by the name of W^m^ Penn y^e^ son and heir of W^m^ Penn, decd. and to my heirs and assigns forever all that tract of land lying and being from Twelve miles northward of New Castle, upon Delaware river in America, to Cape Enlopen upon the said river and bay of Delaware southward, Together with all royalties, franchises, duties, jurisdictions, liberties and privileges thereunto belonging.

Preamble.

NOW KNOW YEE That for the well being and government of the said Province and territories thereunto annexed and for the encouragement of all the freemen and planters that may be therein concerned in pursuance of the rights and

Liberties, franchises and properties, declared, granted, and confirmed.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

powers aforementioned, I the said William Penn, Have Declared, Granted and Confirmed, and by these presents for mee my heirs and assigns, do declare, grant and confirme unto all the freemen, planters and adventurers, of, in and to the said Province and Territories thereof, these Liberties, franchises and properties, so far as in me lieth, to be held, enjoyed and kept by the freemen, planters and adventurers of and in the said Province of Pennsilvania and Territories thereunto annexed forever.

Government, of what to consist.

1st Imprimis. That the Government of this Province and Territories thereof, shall from time to time according to the powers of the Patent and deeds of feofment aforesaid, Consist of the Proprietarie and Governour and freemen of the said Province and Territories thereof in form of a Provinciall Councill and General Assemblie, which Provinciall Councill shall consist of eighteen persons being three out of each countie, and which Assemblie shall consist of thirty-six persons, being six out of each countie, men of most note for virtue, wisdome and ability, by whom all Laws shall be made, officers chosen and publick affairs transacted, as is hereafter limited and declared.

Council and assembly.

Election and terms of members of council.

Second. There being three persons already chosen for every respective countie of this Province and Territories thereof to serve in the Provinciall Council, one of them for three years; One for two years, and one for one yeare, and one of them being to goe off yearlie in every countie; That on the tenth day of the first month yearly for ever after, the freemen of the said Province and Territories thereof, shall meet together in the most convenient place in everie countie of this Province and Territories thereof, and then and there to choose one person qualified as aforesaid in everie countie, being one-third of the number to serve in Provincial Council for Three years; It being intended that one-third of the whole Provinciall Council, consisting and to consist of eighteen persons, falling off yearlie, It shall be yearlie supplyed by such new yearlie elections as aforesaid; and that no one person shall Continue in Longer than three yeares, and in Case anie member shall decease before the last election during his time, That then att the next election ensuing his decease, another shall be chosen to supply his place for the Remaining Time he was to have served, and no longer.

Ineligibility for re-election.

Third. That after the first Seven years everie one of the said third parts that goeth yearlie off, shall be uncapable of being chosen again for one whole year following; That so, all that are Capable and Qualified as aforesaid may be fitted for government, and have a share of the care and burthen of it.

Fourth. That the Provinciall Council in all cases and matters of moment, as their arguing upon bills to be past into laws, or proceedings, about erecting of Courts of Justice, Sitting in judgment upon Criminalls impeached, and choice of officers, in such manner as is hereinefter expressed;

Quorum.

not Less than two Thirds of the whole shall make a Quorum, and that the consent and approbation of two-thirds of that Quorum shall be had in all such cases or matters of moment:

And that in all Cases and Matters of lesser moment one-third of the whole shall make a Quorum, the majoritie of which shall and may always determine in such Cases and Causes of lesser moment.

Governor and council empowered to prepare and propose bills.

Fifth. That the Governour and Provinciall Council shall have the power of preparing and proposing to the Assemblie hereafter mentioned, all Bills which they shall see needful, and that shall att anie time be past into Laws within the said Province and Territories thereof, which Bills shall be published and affixed to the most noted place in everie countie of this Province and Territories thereof, Twentie days before the meetting of the Assemblie in order to the passing of the same into Laws.

Bills to be published.

To see that laws and ordinances are executed.

Sixth. That the Governour and Provinciall Councill shall take Care that all Laws, Statutes and ordinances which shall at anie time be made within the said Province and Territories be dulie and diligentlie executed.

Have care of peace and safety of province.

Seventh. That the Governour and Provinciall Councill shall att all times have the care of the peace and safetie of the Province and Territories thereof; and that nothing be by anie person attempted to the subversion of this frame of government.

Order the situation of cities and market towns.

Appoint roads and highways.

Eighth. That the Governour and Provincial Council shall att all times settle and order the scituation of all Cities and markett towns in everie countie, modelling therein all public buildings, streets and market places and shall appoint all necessarie roads and highways in this Province and Territories thereof.

Inspect the treasury, and punish misuse of funds.

Ninth. That the Governour and Provinciall Councill shall att all times have power to inspect the management of the publick treasurie, and punish those who shall convert anie part thereof to anie other use than what hath been agreed upon by the Governour, Provincial Council and Assembly.

Establish schools, and encourage inventions.

Tenth. That the Governour and Provincial Councill shall erect and order all publick schools and encourage and reward the authors of usefull sciences and laudable inventions in the said Province and Territories thereof.

Care of public affairs.

Eleventh. That one third of the Provinciall Council Residing with the Governour, shall with the Governour from time to time have the care of the management of all publick affairs, relating to the Peace, Justice, Treasurie Trade and Improvement of the Province and Territories, and to the good education of youth and sobrietie of the manners of the inhabitants therein as aforesaid.

Governor or deputy to preside in council.

Twelfth. That the Governour or his Deputie shall allways preside in the Provinciall Council, and that hee shall att no time therein perform anie publick act of State whatsoever that shall or may relate unto the Justice, Trade, Treasurie or Safetie of the Province and Territories aforesaid, but by and with the advice and consent of the Provinciall Council thereof.

Assembly, election and meetings of.

Thirteenth. And to the end that all Bills prepared and agreed by the Governour and Provinciall Council as aforesaid, may yet have the more full Concurrence of the freemen of the Province and Territories thereof; It is declared

granted and confirmed that att the time and place in everie countie for the choice of one person to serve in Provinciall Council as aforesaid, The respective Members thereof att their said meetting shall yearlie choose outt of themselves six persons of note for virtue, wisdom and abilitie to serve in Assemblie as their Representatives, who shall yearlie meet on the Tenth day of the third month in the capitall towne or citie of the said Province, unless the Governour and Provincinall Councill shall think flitt to appoynt another place to meet in, where during eight dayes, the several members may freelie confer with one another; and if anie of them see meet with a committee of the Provinciall Council which shall be at that time purposelie appointed to Receive from anie of them proposalls for the alteration or amendment of anie of the said proposed and promulgated bills, and on the ninth day from their so meeting, The said Assemblie after the reading over the proposed Bills by the Clarke of the Provinciall Council, and the occasions and motives for them being opened by the Governour his Deputie, shall upon the Question by him putt, give their affirmative or negative, which to them seemeth best, in such manner as is hereafter expressed: But not less than Two thirds shall make a Quorum in the passing of all Bills and choice of such officers, as are by them to be chosen.

Passing of bills into laws.

Fourteenth. That the Laws so prepared and proposed as aforesaid that are assented to, by the Assemblie, shall be enrolled as Laws of this Province and Territories thereof with this stile: *By the Governour with the assent and approbation of the freemen in Provinciall Council and Assemblie mett*, and from henceforth, the meetings sessions acts and proceedings of the Governour, Provinciall Council and Assemblie shall be styled and called: *The meeting sessions acts and proceedings of the General Assembly of the Province of Pennsilvania and the Territories thereunto belonging.*

Style in which laws to be enrolled.

Style of meetings, &c., of governor, council and assembly.

Fifteenth. And that the representatives of the people in Provinciall Council and Assemblie, May in after ages bear some proportion with the increase and multiplying of the people; The numbers of such representatives of the people may be from time to time increased and enlarged so as at no time the number exceed seventie-two for the Provincial Council and two hundred for the Assembly; The appoyntment and proportioning of which number as also the laying and methodizing of the choice of such representatives in future times most equallie to the division of the country or number of the inhabitants, is left to the Governour and Provincial Council to propose, and to the Assembly to resolve; So that the order of rotation be strictlie observed both in choice of the Council and the respective committees thereof, That is to say, one-third to goe off, and come in yearlie.

Increase of representatives in council and assembly.

Appointment, proportion and choice, left to governor, council and assembly.

Sixteenth. That from and after the death of this present Governour, the Provinciall Council shall together with the succeeding Governour erect from time to time standing Courts of Justice in such places and number as they shall judge convenient for the good government of the said Province and territories thereof; And that the provinciall Coun-

Erection of courts.

cil shall on the thirteenth day of the second month then next ensuing elect and present to the Governour and his deputie a double number of persons to serve for Judges, treasurers and masters of rolls within the said Province and territories, to continue so long as they shall well behave themselves in those capacities respectively. And the freemen of the said Province in Assemblie mett shall on the thirteenth day of the third month yearlie elect and then present to the Governour or his deputie a double number of persons to serve for Sheriffs, Justices of the peace and Coroners for the yeare next ensuing; out of which respective elections and presentments the Governour his deputie shall nominate and commissionate the proper number for each office, the third day after the said respective presentments, or else the first named in such presentment for each office as aforesaid shall stand and serve in that office the time before respectively limited; And in case of death or default, such vacancie shall be supplied by the Governour and provincial Council in manner aforesaid.

Election of judges, treasurers, and masters of rolls.

Sheriffs, justices of the peace, and coroners.

Commissions to be issued.

Vacancies.

Seventeenth. That the Assemblie shall continue so long as may be needfull to Impeach criminalls, fitt to be there impeached, To pass such Bills into Laws as are proposed to them, which they shall think fitt to pass into laws, and till such time as the Governour and provinciall Council shall declare, That they have nothing further to propose unto them for their assent and approbation, and that declaration shall be a dismiss to the Assembly for that time, which Assembly shall be notwithstanding capable of assembling together upon the summons of the Governour and Provinciall Council, att anie time during that yeare, if the Governour and Provincial Council shall see occasion for their so assembling.

How long assembly to continue.

May be convened upon summons of governor and council.

Eighteenth. That all the elections of members or representatives of the people, to serve in Provincial Council and Assembly and all questions to be determined by both or either of them that relate to choice of officers, and all or anie other personall matters shall be resolved or determined by the *Ballot*, and all things relating to the preparing and passing of Bills into Laws, shall be openlie declared and resolved by the vote.

Mode of electing council and assembly, and of determining questions therein.

Nineteenth. That att all times when the Proprietary and Governour shall happen to be an infant and under the age of one and twentie years, and no Guardians or Commissioners are appointed in writing by the father of the said infant, or that such Guardian shall be deceased, That during such minoritie the Provincial Council shall from time to time as they shall see meet Constitute and appoint Guardians and Commissioners not exceeding three; one of which shall preside as deputie and chiefe Guardian during such minoritie, and shall have and execute with the consent of one of the other two, all the power of a Governor, in all publick affairs and concerns of the said Province and territories thereof, according to Charter; which said Guardian so appointed shall also have the care and oversight of the estate of the said minor, and be yearlie accountable and responsible for the same to the Provinciall Council, and the Provinciall Council to the

Appointment of guardians for governor when a minor.

Powers and duties of guardian.

minor when of age; or to the next heir in case of the said minors death for the trust before expressed.

No business to be transacted on Sunday.

Twentieth. That as often as anie days of the month mentioned in anie article of this Charter shall fall upon the first day of the week, commonly called The Lord's day, the business appointed for that day shall be deferred till the next day, unless in case of emergencie.

Estates of aliens, how to descend.

Twenty-first. And for the satisfaction and encouragement of all aliens, I doe give and grant, that if anie alien who is or shall be a purchaser or who doth or shall inhabit in this Province or territories thereof, shall decease att anie time before he can well be naturalized; His right and interest therein shall notwithstanding descend to his wife and children, or other his relations, Be he testate or intestate, according to the laws of this Province and territories thereof in such cases provided; In as free and ample manner to all intents and purposes as if the said alien had been naturalized.

License to hunt and fish.

Twenty-second. And that the inhabitants of this Province and territories thereof may be accommodated with such food and sustenance as God in his providence hath freelie afforded. I do also further Grant to the inhabitants of this Province and territories thereof, libertie to Fowle and Hunt upon the lands they hold and all other lands therein, not enclosed; and to fish in all waters in the said lands, and in all Rivers and Rivuletts, in and belonging to this Province and territories thereof, with Libertie to draw his or their fish to shoare on any man's Lands, So as it be not to the Detriment or annoyance of the owner thereof, Except such lands as doe lye upon inland Rivulets, that are not Boatable, and which are or may be hereafter erected into mannors.

Quiet possession of lands, granted and confirmed.

Twenty-third. And that all the inhabitants of this Province and territories thereof, whether purchasers or others may have the last worldlie pledge of my good and kind intentions to them and theirs, I doe Give, Grant and Confirme to all and everie one of them full and quiet enjoyment of their respective lands, To which they have any lawfull or equitable claime, saving onlie such rents and services for the same as are or customarilie ought to be reserved to mee my Heirs or Assigns.

Alteration of charter, provisions relative to.

Twenty-fourth. That no Act, Law or Ordinance whatsoever shall att anie Time hereafter be made or done by the Proprietarie and Governour of this Province and Territories thereunto belonging, his heirs or assigns, or by the freemen in Provinciall Council or Assemblie, To Alter, Change or Diminish the forme or effect of this Charter or anie part or Clause thereof; or contrary to the true intent and meaning thereof, without the consent of the Proprietarie and Governour his heirs or assigns and Six parts of Seven of the said freemen in Provinciall Councill and Assemblie mett.

Liberties contained in charter, not to be infringed or broken.

25. And lastlie I, the said William Penn Proprietarie and Governor of the Province of Pennsilvania and territories thereunto belonging for myself my heirs and assigns, Have Solemnlie declared granted and Confirmed, and doe hereby solemnlie declare grant and Confirm, That neither I, my heirs or assigns shall procure or doe anie thing or things, whereby

the Liberties in this Charter contained and expressed shall be infringed or broken; And if anie thing be procured by any person or persons Contrarie to these present, It shall be held of no force or effect. In witness I the said William Penn, att Philadelphia, in Pennsilvania Have unto this present Charter of Liberties sett my hand and Broad Seal this second day of the second month, in the yeare of our Lord one thousand six hundred eighty and three being the five and thirtieth yeare of the king, and the third of my government.

Sic Subscribitus, William Penn. *Locus Sigilli Magni.*

This within Charter which we have distinctly heard read and thankfullie received, shall be by us Inviolablie kept att Philadelphia, the second day of the second month 1683. Charter read, and received.

The members of the Provinciall Council present.

William Markham,
John Moll,
William Haig,
Francis Whitwell,
Christopher Taylor,
John Simcock,
William Clayton,
John Hilliard,
Thomas Holme,
William Clark,
William Biles,
John Richardson,
Philip Th. Lehnmann,
Secry to ye Govern'.
Richard Ingelo,
Ck. Councili.

Members of council present.

The members of the Assembly present.

Thomas Wynne, *Speaker.*

Casparus Harman,
John Darbie,
Benoni Bishop,
Benjamin Williams,
W^m^ Guest *als* Butler,
Valentine Hollingsworth,
James Boyden,
John Bezer,
John Harding,
Andrew Bankson,
Simon Irons,
John Wood,
John Curtis, Jr.,
Daniel Brown,
W^m^ Futcher,
John Kipshaven,
Alex^r^ Molliston,
Robert Brassie, Sr.,
Thomas Brassie,
W^m^ Yardlie,
Jno. Hastings,
Robt. Wade,
Tho. Hassold,
John Hart,
Robert Hall,
Bobert Bedwell,
W^m^ Simsmore,
Robert Lucas,
James Williams,
John Blumston,
John Songhurst,
John Hill,
Nicholas Walne,
Thomas Fitzwater,
John Clowes,
Luke Watson,
Joseph Phipps,
Dennis Rochford,
Jno. Brinkloe,
Henry Bowman,
Cornelius Verhooffe,
Samuel Darke,
John Southworthe,
Cl. Synodi.

Members of assembly present.

Some of the inhabitants of Philadelphia then present.

William Howell,
Edmund Warner,
Henry Lewis,
Samuel Myles,

Inhabitants of Philadelphia present.

LAWS MADE

At an Assembly, Held at Philadelphia, the 25th day of the Eighth Month, October, 1683.

The Proprietary, and Governour, and freemen, in Provincial Council assembled, having seriously weighed the present Requisites of the government, They have prepared and published divers Bills, according to Charter, for the notice and convenience of the freemen in Assembly to meet the twenty fourth day of the next month, in the City of Philadelphia, in the form and stile of Laws, then and there to be Confirmed, Amended or Rejected, as the General Assembly shall in their wisdom see meet.

* Members of provincial council, or general assembly, or courts of justice, shall be thus sued.

Chap. CXLIII. And to the End that the Members of Provincial Council Assembly and Courts of Justice in this Province and territories, May not be interrupted in the performance of their Duty to the publick, And that they may be Respected and Distinguished according to their Respective Stations, And yet that their Employment may not protect them from the Reatch of Justice . . . *Be it Enacted by the Authority aforesaid*, That in case any difference or caus of action, shall at any time aryse between any members of Provincial Council, Assembly or Courts of Justice and another person, Every such person may enter his or her action against any such Member, and send unto him a Copy of his or her declaration according to Law; And in Case the said Member shall not Answer at or before the third Court following; That then Judgment shall pass against him by default with Costs and Charges to be executed according to Law.

An action may be brought against them.

But a declaration must be sent, therein, according to law.

If the defendant answer not, at, or before the third court, judgment shall pass by default, with costs to be executed according to law.

Provided always That this law shall not extend to any member of Provincial Council or Assembly, during their attendance and service in Provincial Council and Assembly, and fourteen days befor and fourteen days after their said Service and attendance therein.†

But this law shall not extend to any members of provincial council or general assembly, during their service, and fourteen days before, and fourteen days after, &c.

All merchantable, wheat, rye, indian corn, barley, oats, pork, beef, tobacco, shall be current pay at market price.

Chap. CXLIV. Whereas there is a Necessity for the sake of Commerce in this infancy of things, That the growth and produce of this Province and territories thereof, shall pass in lieu of money, *Be it &c.*, That all Merchantable Wheat, Rye, Indian-corn, Barley, Oats, Pork, Beef, & Tobacco, shall be accoumpted Current pay at the Market price,

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* Marginal notes copied from original manuscript on file in office of Secretary of Commonwealth.—See Colonial Records, Vol. I, edition of 1852, where committee was appointed to inspect notes.

† Repealed in the year 1684—See Chapter 155, *post*.

in every respective County in this Province and territories thereof.*

Writings made according to the following drafts, shall be held legal and authentic.

Chap. CXLV. To the End that Plainness and Brevity may be used, for the ease, benefit and Security both of the public and privat, *Be it &c.*, That all Warrants and Summonses, Arrests Attachments, Replevins Bills single and Obligations, made according to the following draughts, Shall be held legall and authentick, to all intents and purposes, within this Province and territories thereof:

Draughts of a bill, single, and obligatory.

Know all men by these presents, that I, A. B., of &c., Carpenter doo Owe and am indebted unto D. E. of &c. husbandman in the sum of ten pounds five shillings, to be paid to the said D. E., his Executors, Administrators or assigns at or before the &c. day of &c. next ensuing the Date hereof, to the which payment well and truly to be made I bind myself my heirs, Executors, and administrators firmly by these presents (or, in the penal sum of twenty pounds, ten shillings,) Witness my hand and Seal this &c. day of the &c. month 168—., being the &c. year of the King's Reign, and the &c. year of the Proprietaries government.

A warrant of arrest.

These are by the King's Authority and in the Proprietaries name, to require thee to Arrest the body of A. B. if found in thy Baylee week, and him safely to keep and have at the next County Court to be held att &c, the &c., day of the &c. month, Then and there as well to answer the complaint of C. D., as to stand to and abide the Judgment of the Court according to Law, and to make a true Return hereof to the next County Court, given under my hand and seal the &c., day (*ut supra*).

A summons.

These are by the King's Authority and in the Proprietaries name to require thee to appear in the next County Court on the &c. day of the &c., month next, To answer the Complaint of C. D., for withholding of &c. (due upon Bond or Bill, or for goods Sold, or for Work, Trespass, Slander, Assault and Batterie,) And Hereof thou art not to Faill at thy Perill, Given under my hand and seal the &c. day of the &c. month 168 , Being the &c., year of the King's reign and the &c., year of the Proprietaries government.

A replevin.

These are by the King's Authority and in the Proprietaries name, to Replevin (be it Horse, Corn, &c.), the goods of C. D. now Distrayned or impounded by A. B, and to deliver them to the said C. D.; Provided hee give bond with sufficient security, to prosecute the Replevin at the next County Court to be held at &c., And then, and there to abide and perform the Judgment of the said Court according to Law, and make true Return hereof to the next County Court; given under my hand and seal (*ut supra.*)*

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Sheriffs shall ten days before court summon freemen thereof, under pain of paying damages of aggrieved.

Chap. CXLVI. And that Due preparation may be made for Dispatch of Justice, *Be it &c.* That the Sheriff of every County shall, (ten days before the sitting of the ordinary Court of Justice) Summon a sufficient Number of freemen to attend the said Court, for the service of the said County, And upon the Neglect of his Duty herein, to be lyable to pay Double Damages to the party or parties aggrieved.*

No member of court shall sit on bench while his cause is a trying. No member of a court though a councillor, shall sit on an appeal from that court, whereof he is a member.

Chap. CXLVII. And to the end that Justice may have its free course and due in this Province and territories thereof, *Be it &c.*, That no member of a Court of Justice, shall sitt upon the Bench, whilst his own caus is upon tryal, And if an Appeal shall be at any time made from the judgment of a County Court to the Governour and Provincial Council, *It is hereby further Enacted* That no member of that Court of Justice tho a member of Provincial Council, shall sitt in Provincial Council upon that Appeal.†

Bringers of horses &c., here, for sale, shall keep them within fence, till sold; upon pain of twenty shillings per head.

Chap. CXLVIII. And because Divers Complaints are made, That many of the Inhabitants of this Province and territories do suffer damage, by ye bringing in of great Numbers of horses, out of other provinces, as well by the loss of horses that are misled by them or driven away with them, as that their Stock suffers by the Decay of their pasture, *Be it &c.*, That all persons whatsoever that shall bring any Horses, Geldings or Mares into this Province or territories thereof aforesaid for Sale, shall be obliged to keep the same within sufficient fence, till such time as they have disposed thereof, Upon the Penalty of twenty shillings by the head.†

No horses shall be exported till viewed, and recorded, with their marks, and vouchers of the credit of the exporter, under pain of ten pounds for each horse (*alias*) exported.

Chap. CXLIX. And Whereas there hath bin Complaint made, That many of the Inhabitants of this Province and territories thereof, hath and may receive much damage by the exporting of horses out of this Province, *Be it therefore &c.*, That no person shall Export or cause to be Exported any Horse, Gelding or Mare out of this Province or territories thereof, Without first bringing them before such

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 69, Petition of Right. *post.*

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

officers as shall be by the governor authorized to view and record them, with their proper Marks, and sufficient Vouchers of the Credit of the party that so exports them, Upon the Penalty of ten pounds for every such Horse, Gelding or Mare.*

Chap. CL. Whereas complaint hath bin made, That the fees due to severall officers according to law are unpaid and refused by divers to be paid, And that it is both unreasonable and impossible that men should wait upon and serve other person's occasions in any Capacity in the government, without just satisfaction, *Be it &c.*, That in Case any fees shall be Unpaid the first day of the Next tenth month after they are due, Upon complaint to the County Court, execution shall be granted upon the goods and Chattels of the persons owing the fees, aforesaid.*

All fees shall be paid the first day of next tenth month after due, (*alias*) upon complaint to the county court, execution shall be granted upon the goods of the debtor.

Chap. CLI. And to prevent Differences and unnecessarie Law-suits about Dealing, *Be it &c.*, That all persons in this Province and territories thereof, shall make up their accompts once everie year, And either pay what is owing or pass the ballance into bills under their hands and Seals, Provided the same be above forty shillings, And in case any person refuse to accompt as aforesaid, That upon Proof made of such Debt and refusall in open Court, Judgment shall pass against him or her for Debt and Damages.†

Accounts shall be made up once a year, and the balance paid, or passed into a bill, if above forty shillings.

The refuser, upon proof of debt, and refusal, shall have judgment against him for debt, and damages, in court.

Chap. CLII. That notwithstanding the Bay and River of Delaware is greatly Commended of those that are acquainted with ye same, Yet forasmuch as there hath bin and is Like to be a greater Recourse of Shipping than in times past. To the end that strangers may not suffer any Inconveniencie for want of knowledge of the Channel, *Be it &c.*, That all Ships and vessell above twelve tons that shall come to this Province and territories, shall pay One penny per ton towards the Setting up and maintaining of necessarie buoys in this Bay and River of Delaware.‡

Ships above twelve tons, shall pay one penny per ton, to set up, and maintain buoys in Delaware.

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 70 and 26, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡Repealed in the year 1690—See Chap. 192, *post*.

Servants absenting from their service, shall serve five days for each day's absence, and pay the damages, &c.

Chap. CLIII. To prevent the Running Away of Servants from their Masters or Mistresses, *Be it Enacted by the Authority aforesaid*, That no Servant shall presume to absent from his or her respective Master or Mistress or overseer without leave or consent, And that every servant so absenting from his or her respective service, shall serve five days for every days absence, after the expiration of his or her Servitude; And shall further make such Satisfaction for the Damages, costs, and chairges the said Master or Mistress shall sustain by the absence of the said servant, as the respective County Court shall see meet.*

LAWS MADE

At an Assembly Held at New-Castle, The 10th day of the 3d Month, May 1684.

The Proprietary and Governor and freemen in the Provincial Council assembled, having taken into further Consideration the present state of affairs, have prepared and published severall Bills according to Charter and the powers granted by the King's Letter's patents, for the Notice and Convenience of the freemen in Assembly to meet the tenth day of the third month 1684, in the town of New-Castle, in the form and style of Laws. Then and there to be Confirmed, Amended or Rejected as the General Assembly shall in their wisdom see meett.

Which Bills following being accordingly taken into Consideration by the Assembly being held the tenth day of the third month 1684, att the Towne of New-Castle, aforesaid, Were by them assented to, And on the nineteenth of the said month then and there by the General Assembly past into Laws.

Be it Enacted by the Authority aforesaid, by and with the advice and consent of the freemen in Provincial Council and Assembly mett and by the authority of the same; That these following Chapters and Paragraphs shall be Additional Laws of the Province of Pennsilvania and territories thereunto annexed, That is to say,

† Continuation of laws in force.

Chap. CLIV. That all those Laws made by the Assembly held at Upland, seventh of the Tenth Month 1682, and att Philadelphia in the first Month 1683, and att the same place, the twenty-seventh of the eighth month 1683, Shall be and are hereby Continowed to stand and be in full force and vertue, until the end of the first Sessions of the next General Assembly, and afterwards until the publication of other laws

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 68, Petition of Right, *post*. See Chapter 180, *post*, for another law relative to runaway servants.

† Marginal notes copied from original manuscript on file in office of Secretary of Commonwealth.

to be passt in the said next General Assembly, be had, made and done, Except such Laws or part of laws as are by any of the following Laws Repealed, Varied, Explained or Added unto.*

Chap. CLV. That the Laws Contained in the thirty fourth Chapter made in the foregoing Assembly concerning the Reduction of Weights and Measures to the standard of England The fortieth Chapter relating to the moderation of fines, The sixty eighth chapter relating to a Grand Inquest. The ninety ninth chapter touching Ordinary keepers, The one hundred and fifth chapter prohibiting the Running of horses att large under some certain Dimensions, The one hundred and thirty third touching marriages, And the one hundred and forty third, touching priviledges to members of Council and Assembly, Some of which being supplyed by subsequent Laws, and others not of that immediate service to be continowed; Be henceforth, and by virtue hereof Repealed.*

Chap's. repealed. 34 40 68 99 105 133 143

Chap. CLVI. That Monthly and Quarterlie Sessions be held in every County in this Province and territories by the respective Justices, And that each Quarter Sessions be as well a court of Equity as Law, Concerning any Judgment given in Cases by Law capable of Triall in the respective County Sessions and Courts.†

That monthly and quarterly sessions be held in each county; and the quarter sessions be as well a court of equity, as law.

Chap. CLVII. And that the Proprietary and Governour may at all Times be attended with at Least one third of the Provinciall Counsell, according to Charter,——*Be it Enacted by the Authority aforesaid*, That not less than one of the members chosen to serve in Provinciall Councill out of every County, shall alwayes attend the Proprietary and Governor, for the Service of the Government, On the penalty of twenty Shillings per day, for every Day's willfull absence of every such Member; And if in Case any such member shall willfully absent himself above forty days from the time, that hee ought to give his attendance; Or if a person of ill fame shall be chosen and returned to Serve as a Member of the

One member chosen to serve in provincial council, out of each county, shall still attend the governor; at least under twenty shillings for each days absence willfull.

If a member willfully absent forty days;

Or if a person of ill fame be chosen, and so be dismissed;

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 71, Petition of Right, *post*.

Or if a person chosen shall die within six months, after election;

Another shall be immediately chosen in their room.

Provinciall Councell and for the same shall be Dismist by the Governor and Provinciall Councill; Or if any person shall Decease within six months after being elected for that service, It shall and may be lawfull for the Proprietary and Governour within Ten days after knowledge of the same to issue out a writ to the Sherriffe of the County for which the party was chosen, Immediately to Summons the freemen of same to elect another member to serve in Provinciall Councill the remainder of the time of such absent, infamous or deceased person, for which he was chosen; Anie law act or grant in this Province and territories, to the Contrary of this in any wise notwithstanding.*

There shall be five provincial judges.

Three of which shall be a provincial fixed court at Philadelphia, twice a year.

And two of them shall be a circular court.

They shall hear appeals, trials of titles of land, and all causes, civil and criminal, not determinable by the county courts.

Chap. CLVIII. That there shall be five Provinciall Judges appointed by the Governor under the great seal of this Province; Which Judges or anie Three of them, shall be a Provinciall Court and sitt twice every year in the town of Philadelphia; And any two of them att least shall every Fall and Spring yearly goe their Circuits into everie respective County of this Province and territories, and there hold a Provinciall Court. Which Court whether fixt or circular shall have the hearing and Determining of all Appealls from inferior Courts, Also, all trialls of Titles of Land, and all Causes as well Criminall as Civill both in Law and Equity, not Determinable by the respective County Courts; anie thing in this or any other act or Law of this Province or Territories to the Contrary in any wise notwithstanding.*

Where number of stripes not mentioned, there shall not be above twenty one.

Chap. CLIX. That whereby the Laws of this Government the punishment of any offender is appointed by infliction of stripes, and the number not mentioned, That in all such cases the number of stripes do not exceed one and twenty.*

All hues and cries, warrants, of West Jersey, against treason, felony, runaway's or gross misdemeanors, shall be of force here against said offenders.

Chap. CLX. For the increase of Union and good Understanding between the Government of Pennsilvania, and territories, and that of West Jersey,——*Be it Enacted by the Authority aforesaid*, That all hues and Cryes and Warrants granted by any of the Magistrates of West Jersey, against any offender for Treason, Felony, Run-away servants, or gross Misdemeanour from that Colony, shall be of the same force to all the respective Officers of this Province and Ter-

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

ritories as if they were granted by any Magistrate in this Province or territories for the pursuing, apprehending and returning of the said offender, to some proper Officer belonging to that Government.

Provided allways, that that Government do within Two Months after the passing hereof enact a Law to impower the Magistrates and Officers of this Province and territories to the like purpose; And that their Warrants or Hues and Cryes shall have the same force and effect in as full and ample a Manner to pursue and prosecute all Offenders into any part of Jersey, that shall fly or runn away thither from this Province and territories.*

Provided that within two months they make a law, allowing ours, like privilege.

Chap. CLXI. That it be Referred to the Governour and Provinciall councill to treat with some of the Chief of the Indians touching their Immoderat use of Rum, and Brandy and other Strong Liquors; And if upon Conference with them had, An agreement can be made for the punishing such of the Indians as shall abuse themselves with those Drinks unto Drunkenness, and shall submitt to have the Laws of this government executed upon them when they shall any wise transgress them, equally with other inhabitants; That in that Case the Governour and Provinciall Councell may by proclamation suspend the execution of the fifteenth chapter of laws made at Upland, prohibiting the sale of Brandy, Rum and other strong liquors, to the Indians; for such time as the Governour and Provinciall Councell, shall think fitt; Any thing in the said Law, or any other Act or Law to the contrary hereof in any wise, notwithstanding.*

That the governor and provincial council, treat with Indians about rum.

And if they shall agree to undergo the laws for Drunkeness equally with us;

that then the execution of the fifteenth chapter may be suspended for a time &c.

Chap. CLXII. That if anie Person shall sell any strong Beer, made wholly of barley mault, above the rate of three pence a full Winechester quart, and all beer or drink made of mollasses, above One penny a Quart, botled or Unbotled, mixt or Unmixt, Sweetned or Unsweetned, and be Lawfully Convicted thereof within Ten days after the fact committed, Before any one Justice of the Peace, by the Testimony of two Witnesses, the parties' Confession, or by the View and hearing of the Justice of the peace, shall for every such Offence forfeit five shillings a Quart, and so proportionably for every greater, or lesser measure.——*vid.* chap. 33[d].*

Sellers of malt beer above three pence a quart; and of molasses, above one penny per quart, to forfeit five shillings per quart.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

That there be a registry both of freemen and servants; come, or to come, in the province; all by the first of the fifth month next; and all to come in three month after arrival.

Must deliver in their names, male and female, old and young, into the county registry. With their ages, where born, whence came.

And to pay three ponce per head therefor.

Under forfeiture of five shillings per head.

Chap. CLXIII. That there be a Registry kept of all freemen, as well as servants that already are, or from time to time shall come into this Province, and territories not already registered; To which end all persons inhabiting therein, are hereby required att or before the first day of the fifth month next ensuing, and afterwards all that shall henceforward come to inhabit in any County within this Government, within Three Months after arrivall, to deliver in the names of his or her family male and female, old and young, unto the Registry of the respective Counties, where hee, shee or they inhabit, To be by him registered in a book or bookes for that purpose, with their ages as neer as may be, and where they wore born; or from what part of Europe or other parts they came; From whom the said Register respectively, shall have and Demand no more than Three pence a peece. . . . And if any person refuse or neglect to bring in the names of his, or her, or their families, to be registered, as aforesaid within the time afore limited, shall for the said offence forfeit five shillings a head.*

Stealers of living goods and the goods found alive and returned, shall satisfy double.

But of dead goods, and personal, or of living goods, and not restored, shall satisfy treble, and receive not exceeding twenty one stripes.

Chap. CLXIV. That if any person shall be Legally Convicted of Stealing or fraudulentlie taking or Carrying away of any Living goods from any Inhabitant or others in this Province or territories; And the same goods or things stolen be found alyve, and Returned to the owner, The felon shall make double satisfaction. And in Case the goods stollen shall be dead goods, or meerly personall, or living goods and not restored; the felon or the thief shall make Three fold satisfaction and receive corporall punishment not exceeding twenty one stripes.†

Forcible robbers shall satisfy quadruple, and receive twenty one stripes.

If thief nor robber be not able to restore, he shall serve for it, to the behoof of the injured, in house of correction &c.

Chap. CLXV. But if any person be Violent Assault or forcibly shall Robb or take away from any person his or her money, or any goods of any value whatsoever; Such shall make four fold restitution, and receive corporal punishment, not exceeding twenty one strypes. And in any of these Cases herein or in the foregoing Paragraphe mentioned, where the party which stole or robbed be not able to make satisfaction accordingly; such felon, thief or robber, shall be obliged to Servitude or be Committed to the house of Correction, to be kept there att hard Labour to the behoof of the party wronged, according to the discretion of the Court of Judicature for that countie, where the fact was Committed. And

*Amended in the year 1690—See Chapter 193, *post*. Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 72, Petition of Right, *post*.

if any person shall be again found gullty of either of the Crimes aforementioned, shall suffer as at first, and withall shall be soundly whipt not exceeding Thirty one stripes, upon his or their bare backs, in the most publick place in that Division, in sight of the Sherrif, and such Magistrat or magistrats, before whom such Judgment or Sentence was passed.*

Second fault, the same punishment, and thirty one stripes.

Chap. CLXVI. That for preventing of Clandestine Loose, and Unseemly proceedings in this Province and Territories thereof about marriages; All marriages not forbidden by the Law of God shall be encouraged; But the Parents and Guardians shall, if conveniently can, be first consulted with, and the parties clearness of all engagements, assured, by a Certificate from some credible persons, where they have lived, or now do live, produced to such Religious Society to which they relate; or to some one Justice of the Peace of the County in which they Live, and by their fixing their intentions of Marriage, on the Court, or Meeting house doore of the County wherein they Dwell, One month before the solemnization thereof; And their said marriage shall be solemnized by taking One another as husband and wife, before sufficient witnesses, and a certificate of the Marriage under the hands of the parties, and witnesses, att Least Twelve, shall be brought to the Register of the County where they are marryed, and Registered in his office. And if any person shall presume to marry or to joyne any in Marriage contrary thereunto, Such person so marrying shall pay ten pounds and such persons so joyning others in Marriage shall pay Twenty pounds.†

Marriages not forbidden by Moses, to be encouraged.

Parents and guardians to be consulted with.

The parties clearness of other engagements, to be certified to a religious society, or to a justice &c.

There intentions to be affixed one month before solemnization.

Solemnized by taking each other as husband and wife, before twelve witnesses.

A certificate thereof, to be registered in the county registry, where married.

The marryer contrary hereto, shall forfeit ten pounds, and the joiner twenty pounds.

Chap. CLXVII. That no Inhabitant in this Province or territories Shall be taken for Debt before a tryall, unless hee or shee be about to Depart out of the same, and shall refuse to give Sufficient Baile for appearance att the next Court, or security for the payment of the Debt, or hath not goods sufficient to be attached; And that in such Cases before any warrantt off arrest be granted the plaintiff shall solemnly Declare before those who are impowered to grant the same, That hee or shee believes in his or her Conscience, that his or her cause or action is just, and his or her Declaration and evidence are ready for Tryall, if the Defendant shall pray a special Court. . . . And that in Cases relating to other inhabitants, residing within the said Province and territories,

None to be taken for debts before a trial, unless they be to depart the province, and refuse to give bail, for appearance, or security, or hath not goods sufficient to be attached.

In such cases before an arrest be granted, the plaintiff shall declare the justice of his cause, and that his evidence and declaration are ready if defendant crave a special court.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 72, Petition of Right, *post.*

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

The plaintiff may summons the defendant personally, in any county though not his own county.
Which defendant thus summoned must appear in the county court, out of which, summons, issued
Upon non-appearance judgment shall be entered.
And if on appearance, judgment shall go against him, execution shall be awarded in open court directed to the sheriff of the defendant's county, or where his estate lies.
To be executed as if it had proceeded from the court of that county where he is sheriff.

The process and proceedings shall be by Summons as by the sixty sixth Chapter of laws is established and Ordained. And further that it shall and may be lawful for any plaintiff to sue out a writt of Summons and serve upon the Defendant personally in whatsoever County hee or shee shall be found, (altho it should happen that the dwelling or abode of such Defendant may be in another County, And when so personally summoned, such Defendant shall be bound) to appear in the Court of the said County out of which such writt or summons was issued, And in default of appearance judgment shall be entered against him or her; Or if such Defendant appear and upon tryal Judgment shall go against him or her, Execution shall be Awarded in open Court to be directed to the sherrif of such County where the Defendant dwells or inhabits, or where his estate lyes, to be executed in such manner as if the said execution had proceeded from the Court of that County, where hee is sherrif; Any Law Custom or usage to the contrary hereof notwithstanding. *Provided always* that this shall not extend to any Members of Provinciall Councell and Assembly during their attendance and service in Provinciall Councill and Assembly, and fourteen days before and fourteen days after their said service and attendance therein.*

Each county court shall appoint and attest three sufficient, honest and discreet appraisers.
Their fee two pence in pound of goods appraised.
No goods on execution to be sold without appraisment by two of the appraisers; nor before expiration of seven days after the appraisement.
The sale to be public and overplus restored.

Chap. CLXVIII. That every County Court or Sessions shall and hereby hath power, as often as they shall see caus, to appoint and attest at least three sufficient, honest and discrete persons to be appraisers in Each County, in Cases where there shall be need; Who shall be allowed two pence in the pound only of the goods appraised, And no goods upon Execution to be sold befor such appraisment made by those appraisers or any two of them, nor before the expiration of Seven Days, after such appraisment shall be made, to the end the parties concerned may be present att the sale thereof if they shall see caus; Which sale shall be done openly in a publick way and manner; And the Overplus returned by the Officer to the Owner, if any be.†

No ordinary to be kept without licence.

Chap. CLXIX. That no person within this Province or territories shall presume to keepe any Ordinary or Drinking house, without licence first had and obtained of the Governour; And to the end that all travellers and such as are not

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 28, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 73, Petition of Right, *post*.

house keepers may be reasonably accommodated in places where ordinaries now are, or shall be hereafter keept, No such keeper of an Ordinary shall Demand above seven pence half penny per Meal by the head; Which meale shall Consist of beefe, pork or such like produce of the Country; With small beer; And if a footman hee shall not demand above two pence a Night for his bed, And if a horseman; Nothing; hee paying Six pence a night for his horse's hay or grass. And in Case any person shall keep an Ordinary or drinking house without Licence, such person shall forfeit five pounds; And if any person shall presume to ask more than is herein exprest, shall forfeit five shillings, for every such offence, And in Case any such keeper of an Ordinary or Master or Mistress of such Drinking house, shall keep a Disorderly house, It shall and may be Lawfull for the County Sessions where hee or shee lives, upon sufficient testimony or evidence thereof, to suppress the same.*

He shall not demand but seven and one half pence per head, for a meal consisting of beef pork &c. and small beer.
Of a footman two pence per night for bed.
Of a horseman only six pence for his horse.
Forfeiture five pounds and Five shillings for demanding above the above.
A disorderly ordinary suppressible by the county court.

Chap. CLXX. That no Deer skins Undrest shall be put on board any ship, boat or vessel with intent to transport out of this Province or territories thereof, before they have been publickly exposed to sale within the same by some persons affixing it in writting upon some Meeting or Court house Doore, five days at least before such exportation, and obtain a Certificate thereof under the hand and seal of the next Justice of the peace, or chief Magistrate or officer of the Custome house, upon penalty of forfeiting the said skins.†

No deerskins undressed to be exported, till publicly exposed to sale, five days before exportation, and obtain it certified under a justice's hand.
Otherwise, the said skins forfeitable.

Chap. CLXXI. That the preservation of the person of our proprietary and Governour from the Violent hands and Destructive Designs and attempts of wicked and Unreasonable men, And that the amount of punishment may Deter them from all Such evil willfull and malitious purposes, . . . *Be it Enacted by the Authority Aforesaid*, That if anie person within this Province or territories shall Compass, Devise or endeavor Death or Destruction or any bodily harm tending to Death or Destruction, Maime or Wounding, Imprisonment or Restraint of the person of the Proprietary and Governor, or to Deprive or Depose him from his government, Or to Levie hostility against him, Or shall move, stir, aid or assist any other with force, to invade this Province or territaries; And such Compassing, Devising or endeavoring shall be made apparent by writing, printing, Speaking or acting,

Compasser, deviser, or endeavorer, of the death, destruction, or bodily harm, maiming, wounding, imprisonment of the governor, or to depose him from, or deprive him from, his government; or to levy hostility against him, or shall aid invaders, &c.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 10, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

which being apparent by writing, printing, speaking, or acting: shall forfeit one half estate, real, and personal, and be perpetually imprisoned.

Such person being Legally Convicted thereof, by the testimony of Two Credible witnesses producing the same fact upon triall or Convicted by due Course of Law, shall for such offence forfeit half his estate reall and personall, and Suffer perpetual imprisonment. . . . *And be it further Enacted by the Authority Aforesaid*, That if any person shall contemptuouslie, malitiouslie and advisedlie by writting, publishing or speaking, express, utter, or declare by any words or Sentences, to stir up or incite any of the people of this Province or territories to hatred or Dislike of the person of the Proprietary and Governor or do or committ any Act or Deed, tending to the subversion of the established government, shall suffer Imprisonment for anie time not exceeding twelve months, and Undergoe such Corporall punishment as the Quality of the Offender and the Nature of the offence may require: *Provided always*, that no person by virtue of this Law shall incure any penalty herein before mentioned, Unless such person be prosecuted within Six Months next after the Offence Committed, and indicted within three months after such prosecution; anything herein contained to the contrary notwithstanding.*

Inciter to hatred of the governor's person.

Or to do anything to the subversion of the established government, shall be imprisoned twelve months, and be corporally punished.

The prosecution to be within six months after the offence: the indictment in three months thereafter.

Disposal of the estate of an intestate.

A third of personal and real estate to wife, during her life.

The remainder with the other two thirds, to his children, the eldest a double portion.

If no child, one half personal to the widow, and the moiety of real, during her life: the remainder to the next of the husband's kin.

If no wife nor child, to the brothers and sisters, or there children.

If no such be one half to the parents and one half to the governor.

If no kin, the other half to the public stock of county

Chap. CLXXII. That the estate of an Intestate shall be thus disposed of: that is to say, One Third of his personall estate shall goe to his Wife, And further One Third of his Lands and Tenements to his Wife, during her Naturall Life; The Remainder, together with the other Two Thirds of his estate shall goe to his children, his eldest son having a Double part or share; And in case the Intestate leaves no child, then half the personall estate to the widow, and the moyety of the reall estate, during her Naturall life, The remainder thereof to the next of her husband's Kinn; And if hee leaveth no wife, child or children, it shall go to his brothers and sisters if any be; Or to the children of such brothers and sisters; And in Case no such be, One half shall goe to the parents, and one half shall goe to the Governour, for want of kinn, the other half to the publick Stock of the County; And the estate of an Intestate widow shall go to her child or children, to be Divided and shared as before; And if shee leave no child or children, the estate to be Disposed of as aforesaid, if any be. And the estate of an Intestate single man or woman shall go to his or her brother and sisters, if any be; and for want of such as before limited: *Provided* that his or her Debts be first paid, and that the Time of claiming be within Three years after the Decease of the Intestate party.†

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† See Chapters 110, *ante*, and 188 *post*. The law abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

Chap. CLXXIII. That if any person within this Province or territories thereof, shall from and after the first day of the next fourth month presume to sell Rum, Brandy, or such like spirits that shall be mixt or adulterated with Water or any other Liquor by the judgment of any Two publick officers of that County where the same shall be sold, being Convicted thereof every such person shall for every such offence forfeit the Rum, Brandy Spirits or other Liquors so Sold, and pay treble the value thereof, One half shall goe to the Governour and the other half to him that shall Discover and prosecute the same.*

The seller of rum, brandy, or spirits, mixed with water, or other liquor, after the first day of June next shall forfeit it,

and pay treble value, one half to governor and one half to discoverer.

Chap. CLXXIV. That all Laws past this Generall Assembly, or that shall pass in any other General Assembly (such only excepted in which their Time of Commencement to be in force is particularly expressed), shall begin to be in force on the Twentieth day after the rising of the General Assembly, in which such Laws were enacted. And all Laws past this General Assembly (the act of indemnity and the Law of fundamentalls only excepted) shall continue in force, until the Twentieth Day after the rysing of the first Sessions of the next General Assembly and no Longer.*

All laws shall begin to be in force on the twentieth day after the rising of the general assembly wherein enacted.

LAWS MADE

At an Assembly, Held at Philadelphia the 10th day of the 3d Month, May 1685.

The Governor and freemen in Provinciall Council mett att Philadelphia the thirtieth day of the first month 1685 have prepared and published according to Charter these following Bills for the Notice and Concurrence of the freemen in Assembly to meett in the tenth day of the third month in the Towne of Philadelphia in the form and stile of Laws, Then and there to be Confirmed, Amended or Rejected, as the Generall Assemblie shall in their wisdome see meett:

Chap. CLXXV. *Be it Enacted by the Authority Aforesaid*, That these following Chapters and paragraphs be additionall Laws of the said Province and territories thereunto annexed,

† Continuation of laws in force.

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*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Marginal notes copied from original manuscript, on file in office of Secretary of the Commonwealth.

That is to say, . . . all the Laws made by the Assemblie held att Chester in the tenth month 1682 And att Philadelphia in the first month 1683 and att the same place in the eighth month 1683, and att New-Castle in the third month 1684, shall and are hereby Continued to Stand and be of full force and virtue, until the end of the first Sessions of the next Generall Assemblie, and afterwards untill the publication of other Laws to be past in the next Generall Assemblie be had, made and done, Except such Laws or part of Laws as are by any of the following Laws varied or added unto.*

Justices to attend the courts.

Else finable thirty shillings.

Chap. CLXXVI. *It is hereby Enacted*, That all Justices of the peace within this Province or territories, shall be held obliged to give their attendance at everie County Court, within their respective places under the penaltie of anie Sum not exceeding Thirtie shillings, for the defrayeing the chairges of the Court, Unless such absence shall be allowed of by the Majoritie of the voices of the present or next succeeding Court.*

Jurors legally summoned, and absent, fineable ten shillings.

Chap. CLXXVII. That everie person being a freeman within this Province or territories being dulie and legallie Summoned to appear in anie Court upon a Jury, and neglects or Omitts to give his attendance Shall be fined not exceeding Tenn shillings, unles att the next Succeeding Court he satisfies the Court with the reason of his absence.†

Remover of a land mark fineable ten pounds.

Chap. CLXXVIII. That no person Whatsoever, shall Cutt fall, alter or remove anie knowne marked or anie Certain bounded tree, or other allowed Land marke to the wrong of his Neighbour, or anie other person, under the penaltie of any sum not exceeding ten pounds.†

Chap. CLXXIX. That all Cattle Whatsoever of a yeare

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 74 and 75, Petition of Right, *post*.

old and upwards, shall be accompted Strayes, which shall not be marked on the ear or otherwise with a brande mark, as the Law of this Province and territories requires.*

Cattle of a year old unmarked, strays.

Chap. CLXXX. That whosoever shall apprehend anie Runnaway Servant belonging to any person within this Province or territories and Cause the same to be secured by a warrant from a Justice of the peace, or deliver him to the Custodie of the sherrif of the place, and give notice publicklie thereof, or Deliver Him or Her to the Owner, or to his order, The said person shall have Twentie shillings for a reward from the said owner, and what chairges the Sheriff shall be att, above the advantage of Such Runaway's labor, Shall be paid him by the Owner.†

Apprehender of a runaway, (servants, delivered to sheriff and notice thereof given or delivered to the owner), shall have twenty shillings for a reward.

Chap. CLXXXI. That all persons Within this Province or territories Contracting Debts to be paid in fresh pork, Tobacco or Corn at anie particular Debtors Plantation, that shall not be Demanded by the Creditor or his Assigns in their proper Seasons, as from the last of the eighth month to the tenth of the second month, Then it shall be lawfull for the Debtor to dispose of the said Pork, Tobacco Corn, And shall not be oblidged to Comply with the same untill the next eighth month ensuing.‡

Contracter of debt payable in fresh pork, tobacco, or corn, at a Persons Plantation if not demanded by the creditor within last of eighth month and first of second month, the debtor may dispose, and need not pay it till eighth month following.

Chap. CLXXXII. The President and Provincial Councill and freemen in Assemblie mett taking into their Serious Consideration the inconveniencie trouble and expense which the Provinciall Judges and inhabitants of the severall Counties are exposed to, by Continueing and attending the Provinciall Courts, and further Considering, how that generallie the Concerns and affairs of each Countie may be heard and determined by the Justices in commission for that Countie, who may be well presumed to be more particularlie knowing in reference to what action or Complaint shall occur to be Cognizable there.

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* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† See Chapter 153, *ante*. The law abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 68, Petition of Right, *post*.

‡ Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 76, Petition of Right, *post*.

All actions of trial of titles of land, debt, account, or slander, civil and criminal, first triable in the proper county courts, to be held quarterly

It is hereby Enacted That all trialls of titles of land, All actions of Debt, accompt or slander, actions personall, and all actions Civill or Criminall whatsoever, (excepting treason, Murder, Manslaughter, and other heinous and enormous Crimes) shall be first heard and Determined in the proper Counties, by the respective Justices which Countie Courts shall be held and keept Quarterlie in everie Countie of this Province and territories, and oftner, if occasion be: And in Case either Plaintiff or Defendant apprehend themselves aggreived, with the Judgment of such Courts; Then upon any just Cause of greivance, Error or Complaint alledged, being allowed of by the Justices on the bench, Either of them may appeal to have the same Cause or Complaint heard over and Determined by three Judges or anie two of them, speciallie to be commissionated by the Governor and Council, who shall hold Courts att Philadelphia the twenty fourth of the next seventh month and the tenth of the second month following. Which Judges also are hereby authorized and impowered to heare and Determine all (treason, murder, manslaughter, and other heinous and enormous Crimes) in the respective Countie Courts, where the said Crimes were Committed, Anie thing contained in the one hundred and sixty first law, or anie other Law of this Province and territories, to the contrarie in anie wise notwithstanding.*

The Party grieved and his grievance, error, or complaints, allowed, may then appeal to three judges, or two of them to be commissionated.

They shall hold courts at Philadelphia, 24th, 7th. mo. and 10th. 2nd. mo. yearly.

These judges also are to try treason, murder, manslaughter, in the respective county courts where the crimes were committed.

Tanned leather not to be sold without the mark of the officer, under pain of forfeiting it.

Chap. CLXXXIII. That no person within this Province or territories shall sell or expose to sale, anie tanned Leather to anie Shoemaker, before it hath received its approbation and mark of the Officer speciallie appointed by the Governour for that purpose, under the penaltie of forfeitting all such Leather, upon proof made of the offence before anie two Justices of the County Court, and both buyer and seller shall be Lyable to be Indicted as for a Nusance, Also if any Shoemaker shall presume to make up into Shoes or boots anie such insufficient Leather, shall forfeit such Shoes and boots, And the appointed Officer is hereby Impowered by a warrant first obtained from anie Justice of the peace for the said County to seize any such insufficient Leather, Shoes or Boots made thereof, and bring it to the next County Court to be condemned.†

Shoes and boots made thereof, forfeited.

Chap. CLXXXIV. That all Countie Courts within this Province and territories shall have power to Nominate and

* Repealed in the year 1690—See Chapter 192, *post.*

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 77, Petition of Right, *post.*

appoint such number of persons to view all partition fences about improved lands as they shall think fitt and qualified for that purpose, who shall from Time to Time as there may be Occasion View them, and be the sole Judges of the sufficiencie or insufficience thereof, As also of Dividing the chairge of partition fences, where Neighbors Improve Lands together, And where the fences are insufficient to give notice thereof to the owner of the said fences, And if they upon Notice given refuse sufficientlie to repair their said fences, being defective, within ten days time, That then upon proof thereof before two Justices of the peace, it may be lawfull for such Justices to order such person or persons who are aggrieved thereby, to repair the said fences, Who shall have Recompense for their labour, To be Levied on the goods and chattels of the person offending by Distress and sale.*

Partition fences; how to be judged sufficient.

And how the insufficient to be repaired.

Chap. CLXXXV. That all Laws past this General Assemblie, such only excepted in which their Time of Commencement to be in force is particularlie expressed; Shall begin to be of force on the twentieth day after the rysing of the General Assemblie in which such Laws were enacted, And all Laws passed this General Assemblie shall Continue in force, Untill the publication of such Laws which shall be made in the next General Assembly.†

All laws shall begin to be of force, on the twentieth day after the rising of the general assembly.

LAWS MADE.

At an Assembly held at Philadelphia, the tenth day of the 3d month, 1688.

Chap. CLXXXVI. *Be it Enacted by the Authority Aforesaid*, That these following Chapters and paragraphs be additional Laws of the said Province and territories thereunto annexed, that is to say, *Be it Enacted by the Authority Aforesaid* that all those Laws made at Chester by the General Assemblie in the tenth month 1682, and at Philadelphia in the first month 1683, and att the same place in the eighth month 1683 and at New Castle in the third month 1684, and at Philadelphia in the third month 1685 Shall be, and are hereby

‡ Confirmation of former laws.

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter, 49, Petition of Right, *post*.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

‡ Marginal notes copied from original manuscript on file in office of Secretary of the Commonwealth.

Continowed to Stand and be in force and Virtue, Untill the end of the first Sessions of the next General Assemblie, and twenty Days afterwards and no Longer, Excepting only the fundamental Laws, And that these following Chapters and paragraphs be additionall Laws of the said Province and territories thereunto annexed.*

Eight per cent for loan of money.

Chap. CLXXXVII. *Be it Enacted by the Authority Aforesaid*, That none shall take Directly or Indirectly for the Loan or use of money or anie Commodities above the value of Eight pounds for the forbearance of one hundred pounds for a year, and so proportionablie after that rate, and they that receive or take more shall forfeit the money or other things Lent and that this Law continue and be in force for one whole year and no Longer.†

Orphan's court, governor, and council may dispose of intestate's lands and in what cases.

Chap. CLXXXVIII. *Be it Enacted by the Authority Aforesaid*, That anie person who dyed or shall dye intestate, Being owner of lands within this Province or territories, and hath Left or shall Leave Legall issue, It shall be lawful for the Court of Orphans with the approbation of the Governour and Councill to impower the Widow or Administrator, in Case of Considerable Debts, chairge of child or children, to make sale of Such parts or tracts of the said Land as the Council and Court shall judge meet, Towards defraying of such just Debts, The education of such Child or Children, Support of the widow, and the better Improving the Remainder of the estate to their advantage, and that this Law continue and be in force for one whole year and no Longer.‡

Explanation of the 51st law, for lands to pay debts.

Chap. CLXXXIX. Forasmuch as by a Law made at Upland, It was enacted that all Lands were made lyable to pay Debts, with such restrictions and Limitations as are therein expressed, for the fuller and more satisfactorie explanation

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 78, Petition of Right, *post*.

‡See Chapters 110 and 172, *ante*; also, Chapter 6, of laws passed in the year 1694, and Chapter 4, of laws passed in the year 1697 *post*. The law abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 79, Petition of Right, *post*.

and alteration of the same, *It is hereby enacted* that all Lands whatsoever and houses, shall be lyable to sale upon judgment and execution obtained against the Defendant, his heir, executors or administrators; With this Due provisoe, that the messuage and plantation with its appurtainences upon which the Defendant is chiefle seated, may not be exposed to Sale till the expiration of one yeare after the judgment obtained, To the intent that the owner, or anie on his behalfe may endevour the redemption of the same; and before such sale shall be made, the appraisment thereof shall be by twelve honest and Discreet men of the Neighborhood, And that after such sale and appraisment as aforesaid, the land shall be and remain as a free and Clear estate to the Purchaser or creditor his heirs and assigns forever, as ever it was to the Debtor *Provided allwayes* that lawfull interest be allowed to the Creditor from the time of the said Judgment obtained, untill the time of Sale or Satisfaction, *Provided also* that the Chiefe plantation or messuage shall be the Last to be executed, and that this Law continue for one whole year, and till the rysing of the next Generall Assemblie, and until twentie dayes after and no Longer.*

Recording of gifts, grants, &c.

Chap. CXC. Forasmuch as the forty fourth Chapter of Laws enjoyns the recording of all Charters, Gifts, Grants, Conveyances of Lands; Bills, Bonds and such Writtings therein Mentioned, and within the Time therein prescribed, otherwise to be void in Law, *It is hereby Enacted by the Authority Aforesaid* for the prevention of great Inconveniencies and for the satisfaction of Severall owners of lands, that all such Charters, gifts, grants, Conveyances of lands, bills, bonds and such writtings, though they are neither recorded, nor recorded according to Law; yet they are hereby indemnified and are Declared as good and authentick as if they had been Dulie Enrolled, and registered; *Provided allwayes* that all gifts, grants and Conveyances of land or Sufficient Memorandums of the same in this government but made outt of the same may be brought to be recorded in the Inrollment Office within Twelve months, And all such instruments made of lands within this Province or territories may be brought to be registered within six months otherwise to be Void, as in the said Law is declared; And further it is the full Intent and true meaning of this Law that no Bills, Bonds or Specialties shall be required to be recorded, under the penaltie mentioned; But that all such bills, bonds and specialties, which shall be Inrolled or recorded in the said office, the record of the same shall in all Courts of Judicature be allowed and adjudged as Valid, as the originall, and that this law Continue for one whole year and till the rising of

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 80, Petition of Right, *post*.

the next Generall Assemblie, and untill Twentie Days after and no Longer.†

LAWS MADE

At an Assembly held att New-Castle the tenth day of May, 1690.

*Confirmation of former laws.

Chap. CXCI. *Be it enacted* that all those Laws made att Chester in the year 1682, att Philadelphia in 1683, att New-Castle in 1684, att Philadelphia in 1685, and in the same place 1688, shall Continowe to stand in force, Until the rysing of the next Generall Assemblie, and afterwards untill the publication of other Laws, which shall be past in the following Generall Assemblie, except such Laws or part of Laws, which Shall by anie of these following Laws be repealed or such part of Laws, which are by any of the following Laws varied or added unto, except these following Laws viz: chapter fifteen, Selling of rum to the Indians; twenty, Ryators; twenty four, Assault and Batterie; thirty Scandalous Reporters of false News; thirty three Price of Beer and Ale; thirty four Weights and Measures; forty three Bargains by evidence forfeit double; forty eight Registry about Servants; forty nine Factors and Correspondents to forfeit a third part; fifty one Lands lyable to pay Debts; fifty six The informer to have half the fine; sixty five Peacemakers; seventy one to forfeit five pounds, that doth not prove his Action; seventy five Barretors; seventy eight Conveyances; eighty five Cowe-calves; eighty seven Marking of horses and Cattell; ninety eight Custom of hydes; one hundred and four Hemp and flax Current pay; one hundred and sixteen Neglect of Counsellors giving their attendance; one hundred and forty four What of the Country growth shall pass for monie; one hundred and fifty one Accompts to be made up once a year; one hundred and sixty four, Stealing Live or Dead goods; one hundred and seventy Deer Skins to be exposed to sale; one hundred and seventy two, Intestates, all which Laws here last excepted shall be and continued until the rysing of the next Generall Assembly and twenty days after and no Longer; And that these following Chapters and paragraphs shall be taken as additionall Laws of the Province and territories: †

Chap. CXCII. That the ninety seventh Law of Custom upon Strong Liquors; the ninety eighth, of custome upon

*Marginal notes copied from original manuscript, on file in office of Secretary of the Commonwealth.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

hyde beaver and peltrie the one hundred and sixth, prohibiting provision imported to be exposed to sale before the same had been five days in the Province or territories; the one hundred and fifty second about buoys; the seventieth, Law of appealls to the Council, the one hundred and eighty second concerning holding of Provinciall Courts be and are hereby repealed.* Laws repealed. 97 98 106 152 70 182

Chap. CXCIII. *Be it Enacted* that in the one hundred and sixty third law of registering the Names of freemen &c. these words, (and if anie person refuse, or neglect to bring in the Names of his, her or their families to be registered as aforesaid within the time afore Limited, shall for the said offence forfeit five shillings per head) be and are hereby repealed; And that these words in the eighty sixth Chapter of Laws concerning the killing of wolves (and if anie Indian shall kill a wolf and bring the head and bodie to a Justice of the peace, hee shall have five shillings and the skin for his pains) and these words (Indians only excepted) be and are hereby repealed. That the reward therein mentioned to be the same to an Indian, as is allowed to any other.* Laws varied. 163. 86.

Chap. CXCIV. *Be it Enacted* That anie person summoned or required by precept or order from anie Court or Magistrate to give their evidence upon anie Matter or difference, and the said person shall Neglect his Dutie in not appearing accordingly, such person may be fyned att the Discretion of a Quorum of Justices of the present or succeeding Court, to the benefit of the partie wronged by his absence.† Witnesses absent, fineable.

Chap. CXCV. Whereas the fifteenth Law prohibiting the sale of Strong Liquors to the Indians and the penaltie for evrie such offence is expressed to be five pounds, *It is hereby further enacted*, that one moiety of the said sum shall go to the discoverer.* Half of the fine of the 15th. law to the discoverers.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

† Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 81, Petition of Right, *post.*

Ferry rates over the falls and at Burlington.

Chap. CXCVI. *Be it Enacted by the Authoritie Aforesaid*, that between the falls of Deleware and New Castle, the ferry rates shall be as followeth, That over Delaware river att or near the falls or near Burlington two pence a passenger, And foure pence a head for oxen, bullocks, cows, heifers, horses, or Mares, and a pennie a head for sheep and hoggs; but for man and horse Loaden or Unloaden six pence.

Over Neshaminee.

Over Schuylkill.

Over Brandywine and Cristina.

Over Neshaminee One pennie a passenger and two pence for a horse, if swom but a pennie. Over Skuillkill two pence a head for oxen, bullocks, cows, heifers, horses' and mares, and a half a pennie a head for sheepe and hoggs, and two pence a Single passenger and a pennie a picce for all passengers, above the Number one; but for a man's horse, Loaden or unloaden three pence. Over Brandy wine and Cristina creeks two pence a passinger, but for a man with horse loaden or unloaden four pence, and for the above said Cattle the rates above set downe as over Skuillkill; *And be it further Enacted* that all the keepers or owners of the said ferries, shall att their owne proper chairges make good support, and from time to time amend and repair all Landings and landings and Casways belonging to the said ferries, that the same may be passable for man and beast, and that they yield Due Attendance at the said ferries.*

Trials of several actions.

Chap. CXCVII. *It is hereby Enacted* that all trialls of titles of Land all actions of Debt, Accompt or Slander, actions personal, and all actions Civill and Criminall whatsoever, excepting Treason, Murther, Manslaughter, and other heinous and enormous crimes, shall be first heard and tryed, in the proper County Courts, by the respective Justices; Which County Courts shall be kept and held Quarterlie in evrie County of this Province and counties annexed, and oftener if occasion be; Which County Courts shall be Courts of equitie for the hearing and determining all matters and causes cognizable in the said Court, under the value of ten pounds; And in case either plaintiff or defendant shall apprehend themselves aggreived with the Verdict of the Jury, or Judgment of the Court, they may appeall to have the caus of complaint heard over and determined by the then next Provincial Court, to be held for the said Countie, Which said appeall shall be granted, provided that the Debt or damages, in the said judgment be ten pounds or upwards, the appellant giving good and sufficient security to prosecute the said Appeall, and to pay all costs and damages, That Shall be awarded against him, *And it is further enacted* That there shall be Five provincial Judges appointed by the Governour under the great Seal of the Province, Which Judges or anie three of them Shall be a Provincial Court, and Shall sitt twice in

All under ten pounds triable in equity in the county courts.

Appeal.

Five provincial judges.

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

every year at the town of Philadelphia, on the twenty Fourth Day of the seventh month, and the tenth Day of the second month; and att Least two of the five every Fall, and Spring, yearlie shall go their circuit into every respective County in this Government, And there hold a Provincial Court on the Twenty eighth day of the Seventh month, And the fourteenth Day of the second month, in the Countie of Bucks; And on the second day of the eighth month, and on the eighteenth day of the second month, att Chester; And on the fifth Day of the eighth month, And the one and Twentieth day of the second month, att New Castle; And on the ninth day of the eighth month, And twenty fifth day of the second month, in the Countie of Kent; And on the thirteenth Day of the eighth month, And Twenty ninth day of the second month, att Lewis in the Countie of Sussex; when, where and as often as there Shall be Occasion, of which occasion Notice Shall be given by the respective Clerks where Such appealls are so granted, as aforesaid, under the Countie Seal directed to the Governour or President for the time being, by the first opportunity after Such appealls are granted; Which Said Circular Courts Shall have the hearing and Determining of all appeals from the said respective County Courts both in law and equity, grantable by the said County Courts; Which Judges are also hereby authorized and impowered to hear and determine, all Treason, Murder, Manslaughter, and other heynous and Enormous Crimes in all and evrie of the said respective Counties. And that all Justices, Sherriffs and other officers shall yield due attendance to the said Judges, during the sitting and Continuance of the said Provinciall Courts fixt and circular; Aniething contained in anie other Law of this Province, to the Contrary, Notwithstanding.* Circular.

Chap. CXCVIII. Whereas there is a certain piece of Mash Lying att the North end of the town of New Castle, formerlie granted by Governour Andross, to the said town and since confirmed by Governour Penn, on condition they should keep the Dykes in good repair; but it hath been since neglected to the great annoyance of the said town, as also to strangers, *Therefore it is enacted by the Authority Aforesaid*, that the foot dyke att the north end of the said town lying between the river side, and the town mash, be sufficientlie made and upheld at the chairge of the said town, Which shall be done by order of the Court of New Castle from time to time; and that evrie person who is taxable within the town of Newcastle, who shall refuse to pay their adjusted proportion of chairge In the said work it shall then be lawful upon Complaint made to the Court, That there

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

shall be a warrant issued out to levie the same upon the goods and chattels of the said party or partys.*

Rangers and Strays.

Chap. CXCIX. Whereas Divers Complaints have been made against Rangers, *It is hereby enacted by the authority aforesaid* that from henceforth no Ranger or other person within this Province and Counties annexed, shall presume to take up anie marked Horse, Mare, or other Cattle, but by the owner's order; and that no Unmarked horses, mares, colts, hoggs or other cattle, shall be deemed and accompted strayes, that are not eighteen months old, Anie law or usage to the contrary, notwithstanding.*

Debts under forty shillings.

Chap. CC. Whereas by the seventy sixth law for speedy Justice to the poore and in small matters, *It is enacted*, That all matters of debt and dues under foorty shillings shall be heard and Determined upon sufficient evidence by any two Justices of the peace of that Countie; the Provincial Council not finding the intended service to be answered thereby, have unanimously agreed that it should be enacted, *And it is hereby enacted by the authority aforesaid*, that upon Complaint made of anie debt or due under Fourty shillings unto any one Justice of the peace, It may be lawful for him, and hee is hereby empowered, upon sufficient evidence to hear and determine the same, And in case the partie Complained against will not Comply with, and satisfie the Judgment That then such Justice shall report his Judgment to the next County Court, and the same shall be recorded by the Clerk of the County Court, as good and binding, if the Countie Court approve the same; And in case the party Complained against as aforesaid, is about to Depart the Province or territories, and the Magistrate be satisfied thereof, the Defendant shall be held obliged either to give securitie for the sum adjudged or bail to abide by, and answer, what shall be determined by the next County Court respectively therein, Any Law to the Contrary notwithstanding.*

Registry of religious society.

Chap. CCI. *Be it Enacted*, that the Registrie keept by any Religious Society, in their respective Meeting book, or books of any marriage, birth or buriall within this Province or ter-

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapters 82, 83, and 84, Petition of Right, *post*.

ritories shall be held authentick, and shall be allowed of, upon all occasions.*

Chap. CCII. Whereas Divers Complaints have been made, That hoggs and goats running at large in the Towns of this Province and counties annexed, are in many respects, verie prejudiciall to the inhabitants, more especiallie in the town of Philadelphia and Newcastle, by destroying fences, pasturage &c., *Therefor be it Enacted by the Authoritie aforesaid, And it is hereby enacted*, that no person or persons Living within the bounds of the town of Philadelphia, between Deleware and the Center, And within the bounds of the town of Newcastle shall Lett or suffer anie hoggs, sows, shoats, piggs, or goates to goe att large in the Streets or Commons of the said Towns, upon, forfeiture of all such hoggs, sows, shoats, piggs, and goats; Which forfeiture shall be for the use of the respective Counties; And if any hogg, shoat, pigg or goat, belonging to anie Inhabitant Living out of the said towns bounds hereafter limited and bounded, shall be found att large within the said bounds of the said respective towns; The owner or owners thereof shall pay Nine pence a time for everie hogg, shoat &c., as aforesaid for the use aforesaid; hereby appointing and Impowering the respective County Courts, to appoynt an officer or beadle to take care that this Law be put in execution, in such Method as the respective Justices shall think fitt; That part of the bounds of Philadelphia hereby intended is, The north and south bounds thereof, running straight on both sides from the river Deleware to the Center; The town bounds of Newcastle hereby intended is, the said Town as laid outt together with the mash on the North end of the said town.†

Chap. CCIII. Whereas by the Laws of this Government, It was Enacted that all fees and sallaries in all cases shall be moderate and Limited by the Governour and Assembly, and that there shall be an establishment of all fees to be paid by the Inhabitants of the Province and territories to the respective officers of ye same; yet Notwithstanding the early care and wholesome provision of our first Legislators, The surveyor's Fees, (being the principal office of profitt in this government) hath not been hitherto by anie Law reduced to an establishment; And the generalitie of the freemen fre-

*Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 85, Petition of Right, *post*.

†Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix.

quentlie complaining not onlie of their Neglect and Undue proceedures, but of the excess of the fees and sums demanded and Exacted for their Service therein, And to prevent farther uncertainties and to avoid as much as in us lyes any cause of Complaint therein for the time to come, and yet Continue a Competent encouragement to such an Officer, *Be it Enacted by the Authoritie aforesaid*, That the Surveyor's Fees for anie Survey which shall be made or Done within this Province and Territories for the future Shall be as follows, and such as shall be Convicted of taking more Shall Refund the Same and Shall be Dismissed their Imploy:

	Lb.	S.	P.
Survey of a single one hundred acres and return thereof	00	6	00.
Survey of a lesser quantity to an acre and return	00	6	00.
Survey of each one hundred above a single one hundred	00	3	00.
Survey and return of a whole front lott	00	6	00.
Survey and return of any Lesser quantity to half a lott	00	6	00.
Survey and return of half a lott, back lott, or Lesser quantity, each	00	3	00.

A PETITION OF RIGHT.

To Benjamin Fletcher, Captain-General and Governour-in-Chief in and over the Province of Pennsilvania and Country of New Castle, &c.:

Wee the freemen of the said Province and Country in General Assembly met humbly shew,

Petition to the Governor to put the laws in execution.

THAT WHEREAS the Late King Charles the second in the three and thirtieth year of his reign by Letters-patent under the great seal of England, did (for the consideration therein mentioned) grant Unto William Penn and his assigns this Colony or tract of land, thereby erecting the same into a Province, calling it Pennsilvania, and constituting the said William Penn Absolute Proprietary of the said Province (saving amongst other things the sovereignty thereof); thereby also granting unto the said William Penn his Deputies and Lieutenants by vertue of the said Royal Charter, full free and absolute power, by and with the Assent of the freemen of the said Province, to make enact and publish any Laws whatsoever for any end appertaining either to the public state peace or safety of the said Country, or unto the private Utility of particular persons, according to their best discretion. Which Laws, so as aforesaid made and published

* Abrogated by William and Mary, King and Queen, in the year 1693—See Appendix. Re-enacted the same year—See Chapter 86, Petition of Right, *post.*

The said late King did, by the said Letters Patent, enjoin, require and Command should be most absolute and available in Law, and that all the Liege people and Subjects of the said Late King his heirs and successors should observe and keep the same inviolably in these parts; But that the Laws for Regulating and governing of property within this Province, and likewise as to Felonies, might be and Continue the same, as they should be, for the time being, by the general course of the Law of England, Until the said Laws should be altered by the said William Penn and by the freemen of the said Province their Delegates or Deputies, or the greater part of them.

AND to the end the said William Penn, or the Inhabitants of this Province might not at any time thereafter, by misconstruction or Colour of the powers aforesaid, or by pretence of the said Laws thereafter to be made, through inadvertency or Design, Depart from the faith and allegiance which by the laws of England they and all the King's subjects in his Dominions always owe to him his heirs and successors, Hee the said late King, did, by his Letters-Patent, declare it to be his further will and pleasure, That a Duplicate of all the Laws so as aforesaid made and published, should, within five years after the making thereof, be transmitted and delivered to the King's Privy-Council for the time being, And if any of the said Laws, within the space of six months after that they wer so transmitted, should be declared, by the said King his Heirs and Successors or his or their Privy Council, inconsistent with the sovereignty or lawful prerogative of the said King his heirs or successors, or Contrary to the faith and allegiance Due to the legal Government of England from the said William Penn or the Planters and Inhabitants of the said Province, and that thereupon any of the said Laws were adjudged and declared to be void by the said King his heirs or Successors, under his or their Privy-Seal, that then and from thenceforth such Laws, concerning which the said Judgment and declaration were made, should become void, otherwise the Laws so transmitted should remain and stand in full force, according to the true intent and meaning thereof. Petition to governor.

BY VIRTUE of which Letters Patent and pursuant to the powers provisos and restrictions therein specified, Divers reasonable and wholsom laws wer made, transmitted and presented to the said King and Privy Council. Petition to governor.

AND WHEREAS the King and Queen that now are over England &c., by their Letters Patent under their Great Seal, dated the one and twentieth day of October in the fourth year of their reign, Having (for the reasons therein mentioned,) taken the government of this Province and Country into there own Hands and under their Immediate care and protection, Did think fit to Constitute and appoint thee the said Benjamin Fletcher to be their Captain General and Governour in Chief in and over the same, Thereby Requiring thee, amongst other things, to do and execute all things in due manner that shall belong to thy command and the trust reposed in thee by the said King and Queen, according to such

reasonable Laws and Statutes as then wer in force, or thereafter should be made and agreed upon by thee, with the advice and Consent of the Council and Assembly of this Country.

Petition to governor.

NOW FORASMUCH as the Laws of this government so made and transmitted as aforesaid, have not been hitherto Adjudged or Declared (either by the late King and Council, or by his successors the said King and Queen and their council, under his or their Privy Seal), to be void, so that such of the said Laws as were not discontinued or repealed by the Legislative Authority of this government, are still in force.

AND seeing It hath pleased the said King and Queen so tenderly to regard the happy government and comfort as well as protection of this Province and Country, as to Conserve those our Laws and Constitutions so fitly accommodated to our circumstances(with respect to tender Consciences as well as Commerce and Cultivation) wee can do no less, than with gratitude and sincerity acknowledge their Royal bounty and peculiar favour therein, Earnestly Desiring that thou would be pleased (according to the tenor and most favorable direction of thy Commission) to govern us, and Cause the administration of Justice within this government to be agreeable with these following Laws which are now in force as aforesaid, *that is to say*,

The first law, Concerning liberty of Conscience; the 2d. law, Concerning qualification of members of Assembly. The 3d and 4th laws, Against Swearing. The 5th and 83d laws, Against prophane speaking. The 6th law, Against Cursing. The 7th law against Adultry. The 8th law, Against Incest. The 11th law, Against Polygamy. The 12th and 83d laws, Against Drunkenness. The 13th and 169th laws, Against Such as suffer Drunkenness in their houses, and about Ordinaries. The 14th law, Against drinking healths. The 17th law, Against breaking into houses. The 19th law, Against Forcible Entry. The 20th law against Rioters. The 21st law, against menacing Parents. The 22d law, Against menacing Magistrates. The 23d law, Against menacing Masters or Mistresses. The 25th law, Against Challenging to Fight. The 26th and 27th laws, Against rude Sports, Plays and Games. The 28th law, Against Sedition. The 30th law, Against Spreaders of false News. The 31st and 121st laws, Against Scolding. The 35th law, Concerning Days of the Week, Month, &c. The 37th law, About Pleading in English. The 38th law, About Trial by twelve men. The 39th, 123d, and 150th Laws, about fees, bribery, and extortion. The 41st law, About defalcation; the 42d, 74th, and 167th, laws, About arrests. The 43d law, about Verbal Contracts. The 45th and 46th laws, About wills. The 50th law, against Defacers of Charters, &c. The 53d law, about Goalers. The 54th law, About prisons. The 55th law, About false Imprisonment. The 56th law, About the manner of punishments. The 58th law, About free Elections. The 59th law, About Taxes. The 64th law, About Liberty and property. The 66th law, About Summons and Court proceedings. The 72d law, about

Derogators of Judgments of Courts. The 74th law, About making Debtors pay by Servitude. The 75th law, Against Barreters. The 77th law, About Orphan's Courts. The 79th law, About acknowledging Deeds in Court. The 80th law, About Seven years possession. The 81st law, About County Seals. The 82d law, About Counterfeiting Hands and Seals. The 84th law, About viewing Pipe staves. The 90th law, Against taking away boats or canoes. The 91st and 184th laws, About fences. The 93d law, About firing woods. The 96th law, About Hog Stealing. The 100th law, About Cartways. The 101st law, About House of Correction. The 102d law, About Weights and Measures. The 108th law, About Departers out of the Province. The 114th law, About Buying Land of Natives. The 118th law, Against Murder. The 119th law, About binding to the peace. The 120th law, Against fornication. The 125th law, About assigning Bills and Specialties. The 126th law, About Bills of Exchange. The 132d law, Against trusting Mariners. The 134th law, About Passes. The 135th law, Against Selling Servants out of the Province. The 136th law, Against Attaching Servants. The 137th law, About entertaining Servants. The 138th law, About trucking with Servants. The 153d and 180th laws, About Run-away Servants. The 146th law, About Summoning Juries. The 149th law About exporting Horses. The 156th law, About monethly Courts. The 164th and 165th laws, About Robbing and Stealing. The 168th law, About Appraisers. The 177th law, About Juries not appearing. The 178th law, About Removing Land Marks. The 181st law, About Debts payable in country produce. The 183d law, About Tanning Leather. The 187th law, Against Usury. The 188th law, About sale of Intestate's land by the Widow or Administrator. The 189th law, About taking Lands in execution for Debts &c. The 194th law, Against witnesses refusing to give evidence being Summoned. The 198th law, About the Dike of New-Castle. The 199th law, Against Rangers. The 200th law, About Determining Debts under fourty shillings. The 201st law, about the Registry keept by Religious Societies. The 203d law, Concerning the Surveyor-General's fees.

Petition to governor.

All which said laws and chapters and every part thereof, Wee humbly desire that you will be pleased to cause thy officers and ministers to observe and put in Due Execution, as they tender the Honour of God, the King's Commands, the prosperity of this government, and the Rights and Liberties of the free people thereof, Which said Laws and Chapters hereafter follow in these words, *that is to say*

Signed by order of the Assembly——

JOS. GROWDEN,
Speaker.

1. THE LAW CONCERNING LIBERTY OF CONSCIENCE.

Almighty God being Only Lord of Conscience father of Lights and Spirits, and the author as well as object of all Divine knowledge, faith, and Worship, who only can enlighten the mind, and persuade and convince the understandings of people. In due reverence to his Sovereignty over the Souls of Mankind . . . . .

Rights of conscience.

Be it enacted by the Authority aforesaid, That no person, now, or at any time hereafter, Living in this Province, who shall confess and acknowledge one Almighty God to be the Creator, Upholder and Ruler of the world, And who professes, him, or herself Obliged in Conscience to Live peaceably and quietly under the civil Government, shall in any case be molested or prejudiced for his, or her Conscientious persuasion or practice Nor shall hee or shee at any time be compelled to frequent or Maintain anie religious worship, place or Ministry whatsoever, Contrary to his, or her mind, but shall freely and fully enjoy his, or her, Christian Liberty in that respect, without any Interruption or reflexion. And if any person shall abuse or deride any other, for his, or her different persuasion and practice in matters of religion, such person shall be lookt upon as a Disturber of the peace, and be punished accordingly.

Freedom of worship.

Abuse for difference of religious opinion, to be punished.

But to the end That Looseness, Irreligion, and Atheism may not Creep in under pretense of Conscience in this Province, *Be it further Enacted by the Authority aforesaid*, That, according to the example of the primitive Christians, and for the ease of the Creation, Every first day of the week, called The Lord's Day, People shall abstain from their usual and common toil and labour, That whether Masters, Parents, Children, or Servants, they may the better dispose themselves to read the Scriptures of truth at home, or frequent such meetings of Religious worship abroad, as may best sute their respective persuasions.*

The Sabbath to be observed.

2. THE LAW CONCERNING QUALIFICATIONS OF MEMBERS OF ASSEMBLY.

Qualifications of officers, members of assembly, &c..

Be it further Enacted by the authority aforesaid. That all officers and persons Commissionated and employed in the service of the government in this Province, and all Members and Deputies elected to serve in Assembly thereof, and all that have a Right to elect such Deputies, shall be such as profess and declare they believe in Jesus Christ to be the son of God, the Saviour of the world, And that are not Convicted of ill-fame, or unsober and dishonest Conversation, and that are of Twenty one years of age at Least.†

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* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 1.

† Supplied by Chapter 1, of laws passed in the year 1699—See *post*.

3. The Law Against Swearing.

Be it further enacted by the authority aforesaid, That whosoever Shall Swear in their common Conversation, by the name of God, or Christ, or Jesus, being Legally convicted thereof, shall pay for every such offence five shillings, or suffer five days imprisonment in the house of correction, at hard labour, to the beehoof of the publick, and be fed with bread and water only, During that time. Punishments for swearing.

And be it further enacted that whosoever shall swear by any other thing or name, and is Legally convicted thereof, shall pay for every such offence, half a Crown, or suffer three days imprisonment in the house of Correction, at hard labor, having only bread and water for their sustenance.*

4. The Law Against Prophane Speaking.

Be it enacted by the authority aforesaid, for the better prevention of Corrupt Communication, That whosoever shall speak loosely and profanely of Almighty God, Christ Jesus, the Holy Spirit, or the Scriptures of truth, and is legally convicted thereof, shall, for every such offence, pay five shillings, or suffer five days imprisonment in the house of Correction, at hard labour, to the behoof of the public, and be fed with bread and water only, during that time.* Punishment for profane speaking.

And be it further Enacted by the Authority aforesaid that if any person shall be drunk, or curse, swear, speak prophanely or obscenely, such person shall be punished according to Law by any one Justice of the peace, so as the offence be in the presence of any officer, Magistrate, or by the parties Confession, or the evidence of two credible persons. And if any Justice of the peace or other publick officer, shall be Convicted of any of the afores[d] crimes, Hee shall pay Double the penalty mentioned against such offenders, and be dismissed his office.* For being drunk, speaking obscenely, &c. Punishment of public officers for such crimes.

5. The Law Against Cursing.

Be it enacted by the Authority aforesaid, That Whosoever shall, in their Conversation at any time curse himself or another or anything belonging to himself or any other, and is Legally convicted thereof, shall pay for every such offence five shillings, or suffer five days imprisonment as aforesaid.* Cursing.

*Supplied by Chapter 44, of laws passed in the year 1700—See Bioren's Laws, vol. 1., page 12.

6. THE LAW AGAINST ADULTERY.

Adultery.

Be it enacted by the authority aforesaid that whosoever defileth the marriage bed, by lying with another Woman or Man, than their own wife or husband, being legally convicted thereof, shall for the first offence be publicly whipt and suffer one whole year's imprisonment in the house of correction, at hard labor, to the behoof of the publick, and longer if the chief Magistrate see meet. And both he and the woman shall be liable to a Bill of Divorcement, if required by the grieved husband or wife, within the said term of one whole year after Conviction. And for the Second offence, imprisonment in manner aforesaid, During Life. And if the party with whom the husband or wife shall defile themselves be unmarryed, for the first offence they shall suffer half a year's imprisonment, in manner aforesaid, And for the second offence, Imprisonment for Life.*

7. THE LAW AGAINST INCEST.

Incest.

Be it enacted by the authority aforesaid, that if any person shall be Legally convicted of Incest, which is uncleannes betwixt near relations in blood, such shall forfeit one half of his estate, and both suffer imprisonment a whole year, in the house of Correction, at hard labour, and for the second offence, imprisonment as aforesaid during life.†

8. THE LAW AGAINST BIGAMY.

Bigamy.

Be it enacted by the authority aforesaid, That Whosoever shall be Convicted of having two wives or two husbands, att one and the same time shall be imprisoned all their Lifetime in the house of Correction, at hard labour, to the behoof of the former wife and children, or the former husband and children; And if a man or woman, being Unmarried, do knowingly marry the husband or wife of another person, hee or shee, shall be punished after the manner aforesaid.†

9. THE LAW AGAINST DRUNKENNESS.

Drunkenness.

Be it Enacted by the Authority aforesaid that every person Disordering or abusing himself with Drink, unto Drunk-

* Supplied by Chapter 3 of laws passed in the year 1700—See Bioren's Laws, vol. 1, page 2.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, pages 2 and 6.

enness, being Legally convicted thereof, shall for the first time, pay five shillings, or work five days in the house of correction at hard Labour and be fed only with bread and water; And for the second offence, and ever after, ten shillings, or ten days labour as aforesaid.*

10. The Law Against such as Suffer Drunkenness in their houses and about Ordinaries.

Excessive drinking in houses.

Be it Enacted by the Authority aforesaid, that they who doe suffer such excess of Drinking in their houses, shall be lyable to the same punishment with the Drunkard.

Keepers of ordinaries, to be licensed.

And it is further Enacted, that no person within this Province or territories, shall presume to keep any Ordinary or Drinking house without License first had and obtained of the Governour.

Meals, rates for, and of what to consist.

And to the end that all travellers & such as are not House Keepers may be reasonably accomodated in places where Ordinaries now are, or shall be hereafter kept, no such keeper of an ordinary shall demand above seven pence half penny per meal by the head, Which meal shall consist of beef, pork, or such like produce of the country, with small beer; and of a footman hee shall not demand above two pence a night for his bed, and of a Horseman nothing, Hee paying Six pence a night for his horses hay or grass.

Rates for lodging.

Penalty for not being licensed.

And in case any person shall keep an ordinary or drinking house without a License, such person shall forfeit five pounds.

For demanding excessive rates.

And in case any such keeper of an ordinary shall presume to ask more than is herein exprest, shall forfeit five Shillings for every such offence.

Suppression of disorderly houses, authorized.

And in case any such keeper of an Ordinary or master or mistress of such drinking house, shall keep a disorderly house, It shall and may be Lawful for the County Sessions where hee or shee lives. upon sufficient Testimony or Evidence thereof, to suppress the same.*

11. The Law Against Drinking of Healths.

Punishment for health drinking and pledges.

Be it Enacted by the authority aforesaid that if any person shall drink healths, which may provoke people to unnecessary and excessive Drinking, being Legally convicted thereof, shall for every such offence, forfeit five shillings, And whosoever shall pledge the same, shall be lyable to the same punishment.*

* Supplied by Chapter 82 of laws passed in the year 1700—See Bioren's Laws, vol. 1, page 29.

12. THE LAW AGAINST BREAKING INTO HOUSES.

House breaking.

Be it Enacted by the Authority aforesaid, That if any person shall break into the dwelling house of any other, to the frighting of any dwelling therein, and shall intend or offer to take away anything out of the said house, such person Convicted thereof, shall make fourfold restitution, and suffer three months imprisonment in the house of correction, at hard labor. And if the party offending, be not able to make restitution, hee or shee shall be imprisoned seven years.*

13. THE LAW AGAINST FORCIBLE ENTRY.

Forcible entry.

Be it Enacted by the Authority aforesaid, That if any person shall violently or forcibly enter the house or possessions of any other, being duly convicted thereof, shall be punished as a breaker of the peace, and make such satisfaction to y^e^ party agrieved as the Circumstances of the fact will bear.†

14. THE LAW AGAINST RIOTERS.

Riots

Be it Enacted by the Authority aforesaid, That if any persons to the number of three shall meet together with Clubs, Staves, or any other Hurtfull weapons to the terror of any of the peaceable people of this Province, and Commit or design to commit any violence or injury upon the person or goods of any of the said Inhabitants, and be convicted thereof, They Shall be reputed and punished as Rioters, and that act of terror and violence or design of violence accounted a Riot.‡

15. THE LAW AGAINST MENACING PARENTS.

Assaulting or menacing parents.

Be It Enacted by the Authority aforesaid, That whosoever shall assault or menace a parent, and shall be duly proved guilty thereof, Shall be Committed to the house of Correction, and there remain at hard labour, during the pleasure of the sd. parent.‡

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*A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 3.

† Re-enacted by Chapter 11, of laws passed in the year 1700—See Bioren's Laws, vol. 1, page 4.

‡ Supplied by Chapters 2, 12 and 26, of laws passed in the year 1700—See Bioren's Laws, vol. 1, pages 2, 4, and 7.

16. The Law Against Menacing Magistrates.

Be It Enacted by the Authority aforesaid, That if any person shall Assault or menace a Magistrate, and be duly Convicted thereof, hee shall be fined according to the nature of the fact, and be committed to the house of Correction at hard Labour for one month after conviction.* Assaulting or menacing magistrates.

17. The Law against Menacing Masters or Mistresses.

Be It Enacted by the Authority aforesaid, That if any servant shall assault his or her Master or Mistress, and be convicted thereof Hee or Shee shall be punisht at the discretion of two Justices of the peace, so it be suteable to the nature of the offence.* Assaulting masters.

18. The Law Against Challenging to Fight.

Be It Enacted by the Authority aforesaid, That whosoever shall Challenge another person to fight, hee that Challengeth & hee that accepteth the Challenge, shall for every such offence pay five pounds or suffer three months Imprisonment in the House of Correction at Hard Labour.* Challenges to fight.

19. The Law against Rude, Sports, Plays and Games.

Be it Enacted by the Authority aforesaid, That whosoever shall introduce into this Province, or frequent such rude & riotous sports & practices, as prizes, stage plays, masques, revells, bull-baitings, cock-fightings, with such like, being convicted thereof, shall be Reputed and fined as Breakers of the peace and suffer at Least ten days Imprisonment at hard Labour in the house of correction, or forfeit twenty shillings. *And be it further enacted*, that if any person be convicted of playing at cards, dice, lotteries, or such like enticing, vain & evil sports and games, such person shall for every such offence pay five shillings or suffer five days Imprisonment in the House of Correction at Hard Labour.† Rude and riotous sports. Card playing, lotteries, &c.

* Supplied by Chapters 12, 26, and 45, of laws passed in the year 1700 —See Bioren's Laws, vol. 1, pages 4, 7, and 13.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, Chapter 2, page 2.

20. THE LAW AGAINST SEDITION.

Sedition.

Be It Enacted by the Authority aforesaid, That if any person shall speak, write, or act, any thing tending to sedition or disturbance of the peace, and be duly Convicted thereof, The party so offending, shall for every such offence be fined according to the nature and circumstances of the fact, Provided it be not less than Twenty Shillings.*

21. THE LAW AGAINST SPREADERS OF FALSE NEWS.

Scandalous reporters, spreaders of false news, &c.

Be It Enacted by the Authority aforesaid, That all Scandalous & malitious Reporters, Defamers and Spreaders of false news, whether agt. magistrates or private persons, being Legally Convicted thereof shall be accordingly severely punisht as enemies to the peace and concord of the Province.*

22. THE LAW AGAINST SCOLDING.

Scolding and railing.

Be It Enacted by the Authority aforesaid, That if any persons shall be Clamorous, Scolding & Railing with their tongues, upon Complaint & full proof thereof before a Justice of the peace, The said Justice of the peace shall for every such offence committ such person to the house of correction, there to remain three days at hard Labour.

To the end that the exorbitancy of the tongue may be bridled & Rebuk'd.

Be it further Enacted, that every person Convicted before any Court or Magistrate for Railing or Scolding, shall stand one whole hour in the most publick place where such offence was committed, with a Gag in their mouth, or pay five shillings.†

23. THE LAW CONCERNING THE DAYS OF THE WEEK MONTH &C.

How days and months to be named.

Be It Enacted by the Authority aforesaid, That the days of the week & moneths of the year shall be called as in Scripture (and not by heathen names as are vulgarly used) as the first, second, and third moneths of the year, and first, second and third days of the week, and beginning with the day, called Sun-day, and the moneth called March.†

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*Supplied by Chapter 14 of laws passed in the year 1700—See Bioren's Laws, vol. 1. page 4.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, Chapters 68 and 22, pages 6 and 22.

24. The Law About Pleading in English.

Be It Enacted by the authority aforesaid, That all pleadings, process and Records in Courts, shall be short & in English & in an ordinary and plaine Character, that they may be easily read & understood, and Justice speedily administered. Pleadings, process and records in courts.

25. The Law about Trials by Twelve Men.

Be It Enacted by the Authority aforesaid, That all trials in Civil Cases shall be by twelve men, and as neer as may be peers or equalls & of the neighbourhood & men without just exception. Trials in civil and criminal cases.

And in Criminal matters of Life there shall be first twenty-four Returned by the Sheriff for a grand Inquest, of whom twelve at Least, Shall find the complaint to be true; and then fourty-eight shall be likewise returned by the Sheriff, of whom twelve shall have the final judgment; But reasonable Challenges shall be always admitted ag^{t}. all or any of them.*

26. The Law about Fees, Bribery and Extortion.

Be It Enacted by the Authority aforesaid, That all fees and salaries in all Cases, shall be moderate and Limited by the Governour and Assembly, and be hung up, on a table in every respective Court, and whosoever shall be Convicted of taking more shall pay two fold & be dismist his employment, one moity of which shall go to the party wronged; And that all persons Convicted of Bribery and extortion, shall forfeit double the same. All fees and salaries to be moderate, &c. Punishment for bribery and extortion.

Be it further Enacted, that all fees by Law Establisht in this Province and Territories, shall be paid in money or value thereof in Country growth or produce at Current price. How fees payable.

Whereas, Complaint hath been made, That the fees due to several officers according to Law, are unpaid, and refused by divers to be paid, and that it is both unreasonable & Impossible that men Should wait upon and Serve other persons occasions in any Capacity, in the government, without Just satisfaction, *Be it further enacted*, That in case any fees shall be unpaid the first day of the next tenth moneth after they are due, upon Complaint to the County Court, Execution shall be granted upon the goods and Chattells of the persons owing the fees aforesaid.* Execution to be issued for unpaid fees.

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*Re-enacted in the year 1700—See Bioren's Laws, vol. 1, Chapter 93, pages 31 and 32.

27. THE LAW ABOUT DEFALCATION.

Defalcation, allowable.

Be It Enacted by the Authority aforesaid, That for avoiding numerous suits, If two men dealing together be indebted to each other upon bonds, bills, bargains or the like, Provided they be of equal clearness and truth, The defendant Shall in his answer acknowledge the debt which the plaintiff demandeth, & defaulk what the plaintiff oweth to him upon the like clearness.*

28. THE LAW ABOUT ARRESTS AND MAKING DEBTORS PAY BY SERVITUDE.

Arrest of persons going out of province.

Be it enacted by the Authority aforesaid, That in Case any man Arrest another going out of the Province, hee shall be ready with his Declaration and Evidence the next day, and shall put in Security to pay the Charges and Damages Sustained by the party arrested, if he shall be found in the Wrong.

Imprisonment for debt.

Be it further enacted, that all persons of known Estates refusing to pay their just debts, if arrested and imprisoned, shall be keept at their own charges untill security be given, or satisfaction made, *Provided* that no person shall be keept in prison for debt or fine, longer than the second day of the next Sessions after his or her Committment, Unless the plaintiff shall make it appear, that the person Imprisoned hath some estate that hee will not produce; In which Case the Court shall examine all persons suspected to be privy in the Concealing such Estates, But if no estate can be found, the debtor shall satisfy the debt by Servitude, as the County Court shall order, if desired by the creditor.

Arrests prior to trial.

Be it further enacted, That no Inhabitant in this Province or territories, shall be taken for debt before a trial, unless hee or shee be about to depart out of the same, and shall refuse to give sufficient bail for appearance at the next Court, or security for the pay^{mt} of the Debt, or hath not goods Sufficient to be attached. And that in such Cases before any warrant of arrest be granted, the plaintiff shall solemnly Declare before those who are Impowered to grant the same, that hee or shee believeth in his or her Conscience, that his or her cause or action is just, and his or her decl'r'^{an} and evidence are ready for trial, if the defendant shall pray a special Court.

Summons may be served in any county.

And that in Cases relating to other Inhabitants, residing within the s^{d} province and territories; The process & proceedings shall be by Summons as by the Sixty sixth Chapter of Laws is established and ordained. And further that it shall and may be lawful for any plaintiff to sue out a writt of Summons and serve upon the defendant personally in whatsoever County hee or shee shall be found, Although it should happen that the dwelling or abode of such defendant may be

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*A similar law passed in the year 1700—See Bioren's Laws, vol. 1, Chapter 38, page 11.

in another County, And when so personally Summoned, Such defendant shall be bound to appear in the Court of the s[d] County, out of which such writt or sumons was issued, and in default of appearance, Judgment shall be entered agst. him or her, or if such defendant appear, and upon trial judgment shall goe agst. him or her, Execu[n] shall be awarded in Open Court to be directed to the sheriff of such County where the defendant dwells or inhabits, or where his estate lyes, To be executed in such manner, as if the s[d] execu[n] had proceeded from the court of that County where hee is sheriff, any Law, custom or usage to the contrary hereof notwithstanding: *Provided always* that this Law shall not extend to any members of Provincial Council and Assembly, during their attendance and service in Provincial Council and Assembly, and fourteen days before and fourteen days after their said service and attendance therein.* Proceedings thereon. Not to extend to council and assembly during service, &c.

29. The Law about Verbal Contracts.

Be it enacted by the Authority aforesaid, That all Promises, Bargains, and Agreements, about buying and Selling, being made appear by Sufficient Evidence, shall stand good and firm, And such as shall Violate the same, hee or shee shall for every such offence, pay twice the value to the person Wronged. Verbal contracts to be valid.

30. The Law about Wills.

Be it enacted by the authority aforesaid, That all Wills in writing attested by two sufficient witnesses, shall be of the same force to Lands as to other Conveyances, being legally proved within fourty days either within or without the said Province. Force and validity of wills.

Be it further enacted, That the Will of no person shall be of force, that is not in his or her right mind, and usual understanding, at the making thereof.† Makers to be of sound mind.

31. The Law against Defacers of Charters.

Be it enacted by the authority aforesaid, That all Defacers, Corrupters, or Embezzlers, of Charters, Gifts, Grants, Rec- Punishment for falsifying records.

* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 31, Chapter 94.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 12, Chapter 43. The first part the same as the 15th law agreed upon in England—See *ante*.

ords, Bonds, Bills, Wills, Contracts or Conveyances, or that shall deface or falsify any Enrolment, Registry or Record, within this Province shall make Double Satisfaction for the same, half whereof shall go to the party wronged, and they shall be Dismist of all places of trust, and be publicly disgraced, as false persons.*

32. THE LAW ABOUT GOALERS.

Treatment and liberty of prisoners.

Be it enacted by the authority aforesaid, That goalers shall not oppress their prisoners, and that all prisons shall be free as to Room, and all prisoners shall have liberty to provide themselves, bedding, food, and other necessaries, during their imprisonment, Except such whose punishment by Law, will not admitt of that Liberty.†

33. THE LAW ABOUT PRISONS.

Prisons to be work-houses.

Be it enacted by the authority aforesaid, That all Prisons shall be workhouses for felons, Thiefs, Vagrants, and Loose, abusive and Idle persons, whereof one shall be in every county.‡

34. THE LAW ABOUT YE MANNER OF PUNISHMENT.

Manner of punishmont, left to magistrates.

Informers to have one third of fines.

Punishment for concealing offenders.

Be it enacted by the authority aforesaid, That as in Divers Laws the penalty of the offence is thus exprest either a certain sum of Money or certain time of imprisonment at hard Labour, in the house of Correction; It shall be Left to the Civil magistrate, which of the two punishments he will inflict upon the person so offending. And whosoever shall know of any of the aforementioned offences, and inform the Civil magistrate thereof, shall have one third of the fine, and if any one shall Conceal such person, hee or shee shall pay one half the fine, Due from the guilty person.

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*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 5, Chapter 16. It is similar to the 21st law agreed upon in England—See *ante*.

†A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 29, Chapter 83.

‡A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 29, Chapter 83. It is in substance the same as the 10th law agreed upon in England—See *ante*.

35. The Law about False Imprisonment.

Be it further enacted by the authority aforesaid, That any person wrongfully imprisoned, shall have Double Damages against the informer or prosecutor.* Damages for wrongful imprisonment.

36. The Law about Free Elections.

That the Elections may not be Corruptly managed, upon which the present and future good of the Province, so much Depends:

Be it enacted by the authority aforesaid, That all Elections of Members or Representatives of the people and freemen of the Province of Pennsilvania and territories annexed, to serve in the Assembly thereof, shall be Free and Voluntary; And that the elector that shall receive any reward or Gift, in Meat, Drink, Moneys, or otherwise, shall forfeit his right to elect; and such person, As shall give, promise or bestow, any such reward as aforesaid to be elected, shall forfeit his election, and be thereby Incapable to serve as aforesaid; And the Assembly shall be sole Judges of the Regularity or Irregularity of the elections of the Members thereof.† Freedom of elections. Corruption to disqualify. Assembly the judge of election of members.

37. The Law about Taxes.

That ye people may be fully secured in the enjoyment of their property: *Be it enacted by the authority aforesaid*, That no money or goods shall be raised upon, or paid by any of the people of this Province and territories annexed, by way of a Publick tax, Custom or Contribution, but by a Law for that purpose made by the Governour and freemen of the said Province and territories thereof; And whosoever shall Levy, Collect, Receive or pay any money or goods, Contrary thereunto, shall be held and punished as a public enemy to the Province, and a betrayer of the Liberties of the people; And that no tax at any time shall Continue any longer than the space of one whole year.‡ No taxes to be levied, except in pursuance of law. Tax to continue for one year only.

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* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 31, Chapter 95. It is the same as the 12th law agreed upon in England—See *ante*.

† The provisions of this law incorporated in Governor Markham's frame of government, adopted November 7, 1696—See *post*. It is in substance the same as the 3d law agreed upon in England—See *ante*.

‡ This law is in substance the same as the 4th law agreed upon in England—See *ante*.

38. THE LAW ABOUT LIBERTY & PROPERTY.

Privileges of a freeman.

Be it enacted by the authority aforesaid, That no Freemen within this Province of Pensilvania or territories thereof, shall be taken or imprisoned, or Dispossessed of his freeholds, or liberties, or be Outlawed, or Exiled, or any other wise hurt, Damnified, or Destroyed, nor shall hee be tryed or Condemned but by the lawful Judgement of his equalls, or by the Laws of this Province and territories thereof.*

39. THE LAW ABOUT SUMMONS AND COURT PROCEEDINGS.

Right to appear in court, and plead in person or by attorney.

First process.

Summoning defendant.

Declaration of justness of cause.

Judgment by default.

Be it enacted by the authority aforesaid, That in all Courts all persons of all persuasions, may freely appear in their own way, and according to their own manner, and there personally plead their own Cause themselves, or if unable, by their friends; And that the first proces shall be the Exhibition of the Complaint, fourteen days before the trial: And that the Defendant may be prepared for his Defence, hee or shee shall be Summoned no Less than ten days before, and a Copy of the Complaint Delivered him, or her, at his or her dwelling house, to answer unto; But before the Complaint of any person shall be received, hee or shee, shall Solemnly Declare in open Court, that hee or shee believeth in his or her Conscience, that his or her cause is just; And if the party complained against shall notwithstanding refuse to appear, The Plaintiff shall have Judgement against the Defendant, by default.†

40. THE LAW AGAINST DEROGATERS OF JUDGMENTS OF COURTS.

Punishment for speaking derogatory of sentence or judgment of court.

Be it enacted by the authority aforesaid, That if any person shall at any time hereafter, speak in Derogation of the Sentence or Judgment of any Court, hee or shee shall be fined for such offence, at the Discretion of that, or the next Court or Sessions.‡

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*Supplied by a law passed in the year 1700—See Bioren's Laws, vol' 1, page 6, Chapter 19.

† Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 31, Chapter 92. It is almost the same as the 6th law agreed upon in England—See *ante*.

‡ A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 11, Chapter 39.

41. The Law against Barrators.

Be it enacted by the authority aforesaid, That if any man be Indicted, proved, and Judged a Common Barrator, Vexing those with Unjust and frequent suits, it shall be in the power of the Court, both to reject his Cause, and punish him for his barratry, by fine or Imprisonment.*

Courts empowered to reject causes and punish barrators.

42. The Law about Orphans' Courts.

Be it enacted by the authority aforesaid, That the Justices of each respective County Court, shall sitt twice every year, to inspect and take Care of the Estates, usage, and Employment of Orphans, which shall be called The Orphans' Court, and sitt the first third day of ye week, in the first and eighth month yearly; That Care may be taken for those, that are not able to take care for themselves.†

Orphans' courts, sittings of.

43. The Law about Acknowledging Deeds in Court.

Be it enacted by the authority aforesaid, That all Deeds of sale, Mortgages, Setlements, Conveyances, (except leases for a year), shall be declared and acknowledged in open Court, And the form of possession in transferring of titles, shall be, By the party, or his Attorney Delivering the said deed or gift in open Court, into the hands of him or his Attorney to whom it is made, and that to stand good to all intents and purposes.‡

Conveyances to be acknowledged in court.

Form of possession in transfers.

44. The Law about Seven years Possession.

Be it enacted by the authority aforesaid, That seven years quiet possession of Lands within this Province or territories thereof, shall forever hereafter give an Unquestionable title; Except in Cases of Infants, Married Women, Lunatics or persons beyond the Seas.§

Seven years quiet possession, to give unquestionable title.

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*Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 12, Chapter 41.

†A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 21, Chapter 62.

‡Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 31 Chapter 96.

§Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 31, Chapter 96. It is in substance the same as the 16th law agreed upon in England—See *ante*.

45. THE LAW ABOUT COUNTY SEALS.

Each county to have seal.

Be it enacted by the authority aforesaid, that there shall be a County Seal in every County of this Province and territories thereunto belonging, for the use of each respective county.*

46. THE LAW ABOUT COUNTERFEITING HANDS AND SEALS.

Punishment for counterfeiting hands and seals.

Be it enacted by the authority aforesaid, That if any person shall be Convicted of Counterfeiting the hand or Seal of any person in this Province or territories thereof, hee or shee shall Suffer three months imprisonment at hard labor, and be fined treble the value hee or shee shall have made thereby, or attempted to have made thereby.

For counterfeiting county seal.

And if any one shall presume to Imitate, or counterfeit any County Seal of this Province or territories thereof, such person shall Suffer twelve months imprisonment at hard labor, and be fined as the County Court shall see cause.

For counterfeiting provincial seal.

And if any person shall presume to counterfeit the Privie-Seal or broadseal of this Province, Every such person, shall Suffer Seven years Imprisonment, at hard labor, And be fined according to the Discretion of the Governor, and Provincial council.*

47. THE LAW ABOUT VIEWING PIPE STAVES.

Viewers of pipe staves, to be appointed.

Be it enacted by the authority aforesaid, That there shall be at Least one person in every County within this Province and territories thereof, chosen and appointed by the County Court, Who shall diligently and faithfully View, and Search all such Pipe-staves as are to be transported, and be used to make tight Cask; Who shall cast by all such, as they shall judge not merchantable, both in respect of worme-holes, not above five in each staff, and due assises, to wit; that are not in length four foot and one half, In breadth, three inches and a half; beside the Sap; In thickness three quarters of an inch, and not Less than an half an inch thick sufficient for use; And all other Staves to be sold for Refuse.

Their duties.

Forfeiture of unmerchantable staves.

And every such viewer shall at all times upon request, give attendance, and shall enter into a book the number of such Merchantable pipe Staves, as hee shall approve, and for whom. And if any man shall put on board any Ship or other Vessel, any pipe staves other than shall be so Searched and approved, except they should be transported for Dry Cask, hee shall forfeit the said whole parcel or Value thereof.

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* Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 5, Chapter 17.

And the Viewer shall be allowed two Shillings for every thousand of pipe-staves, which shall be by him viewed, as aforesaid.* Compensation.

48. The Law against taking away Boats or Canoes.

Be it enacted by the authority aforesaid, That if any person or persons Whatsoever within this Province or territories thereof, shall at any time after the Publication hereof take or carry away any Boat, Vessell, or Canow from any person's Landing, without Leave, hee shall be liable to pay for such his offence twice the value of the boat, vessell or canoee, and the boat, vessel or Canow, Shall remain still intire to the master or owner, and one half of the fine shall go to the master or owner.* Punishment for larceny of boats and canoes.

49. The Law about Fences.

Be it enacted by the authority aforesaid, That all Cornfields shall be fenced, and all fences shall be at least five foot high, and for default thereof, such person shall be fined at the discretion of the County Court. Fields to be fenced.

Be it further enacted, That all County Courts within this Province & Territories, shall have power to nominate and appoint such a number of persons to view all partition fences about Improved Lands, as they shall think fit, and Qualified for that purpose, who shall from time to time, as there may be occasion, view them, and be the sole Judges of the sufficiency or Insufficiency thereof; as also of dividing the Charges of partition fences, where neighbors Improve lands together, and where the fences are Insufficient, to give notice thereof to the owner of the said fences, and if they, upon notice given, refuse sufficiently to repair the s[d] fences, being defective within Ten days, That then upon proof thereof before two Justices of the Peace, It may be lawful for such Justices to order such person or persons who are agrieved thereby, to repair the s[d] fences, who shall have Recompence for their Labour; To be Levyed upon the goods and chattell of the person offending, by distress and sale.* Fence viewers, appointment and duties of. Refusal to repair fences, on notice given.

*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, pages 25, 3 and 18, Chapters 76, 8 and 56.

50. THE LAW ABOUT FIRING OF WOODS.

Payment of damages for unseasonable firing of woods.

Be it enacted by the authority aforesaid, That Whosoever shall presume to set on fire, any Woods, Lands or Marshes, in this Province or territories thereof, before the first day of the first moneth yearly; They shall yearly make good all the Damages that shall thereby happen to any of the inhabitants thereof.*

51. THE LAW ABOUT HOG STEALING.

Punishment for larceny of swine.

Be it enacted by the authority aforesaid, That if any person shall at any time, hereafter, take, steal, kill, possess, or convert to his own use, any hog, or hoggs, shoat, pigg or other Cattle, belonging to any other person, hee or shee being Convicted thereof, shall pay for the first offence to the owner treble the value thereof; and for the second offence hee shall pay treble the value thereof as aforesaid, and also suffer six months' imprisonment at hard Labour; And for the third offence hee or shee shall pay treble the value thereof to the owner, and be whipt with thirty nine Lashes on his or her bare back, well laid on, and be banished out of the Government, never to return again, upon such penalty as the County Court shall think fit to lay upon such persons.

52. THE LAW ABOUT CART-WAYS.

County court to appoint and settle cart-ways.

Be it enacted by the authority aforesaid, That each County Court of this Province and territories thereof, shall appoint and settle Sufficient Cart-ways to the most Convenient Landing places, in their Respective Counties, for publick use and benefit.*

53. THE LAW ABOUT HOUSE of CORRECTION.

Each county to have a house of correction.

Be it enacted by the authority aforesaid, That every County within this Province of Pennsilvania and Territories thereunto belonging, shall before the last day of the Tenth month, next ensuing, at their own Cost and Charge, erect, build or cause to be built in the most Convenient place in each County, respectively a sufficient house, at least twenty foot square, for restraint, Correction, Labour and Punishment of all such persons as shall be thereunto Committed by law; And that

* Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, pages 20 and 18, Chapters 19 and 55.

every County failing herein shall forfeit and pay forty pounds, to be levyed on the goods and Chattels of the Inhabitants of such County.

54. The Law About Weights and Measures.

Standard of weights and measures.

And to prevent fraud in Measures, and to reduce all foreign measures here to the English Standard, *Be it enacted by the authority aforesaid*, That the Measures of this Province and territories thereof, shall be according to the Standard of Weights and Measures in England, That is to say, a bushel shall contain Eight Gallons, according to the Winchester measure: And all weights to be Averdupois, which hath sixteen ounces to the pound, (Gold and Silver, only excepted), within three moneths after the first Session of this Generall Assembly.*

55. The Law about Departers out of ye Province.

Notice of intended departure, to be given.

And passport obtained.

Punishment for carrying person without passport.

Be it enacted by the authority aforesaid, That every person intending to depart or leave this Province & Territories thereof, shall publish his or her intention in writing, affixed to the door of the County Court, where hee or shee inhabits, thirty days before his or her Departure, and shall have a pass under the County Seal; And if any Master of Ship or Vessel or others, shall presume to Convey or transport any person out of this Province, or territories thereof, without such pass, Shall pay all the Damages that shall happen thereby.†

56. The Law about Buying Land of Natives.

Punishment for buying land from natives without leave.

Be it enacted by the authority aforesaid, That if any person Shall presume to buy any Land of the Natives, in the Limits of this Province or territories thereof, without Leave from the Proprietary and Governour thereof, or his Deputy; such person shall Lose the said Land, and pay at the rate of ten shillings, for every one hundred acres thereof, to the Governour or his Assigns.†

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*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 23, Chapter 73.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, pages 21 and 6, Chapters 66 and 20.

57. THE LAW AGAINST MURDER.

Murderers and their accessories, to suffer death.

Be it enacted by the authority aforesaid, That if any person within this Province, or territories thereof, Shall wilfully, or premeditately kill another person, or wilfully or premeditately, be the cause of, or accessory to the Death of any person, Such person Shall, according to the law of God Suffer Death; And one half of his Estate Shall go to his wife and Children; And if no Wife nor children, then to the next of his kindred, not Descending Lower than to the third Degree; To be Claimed within three years after his Death; And the other half of his estate to be Disposed of, as the Governour shall see meet.*

How their estates to be disposed of.

58. THE LAW ABOUT BINDING TO YE PEACE.

Surety of the peace, proceedings in cases of.

Be it enacted by the authority aforesaid, That whatsoever person shall threaten another to wound, kill or destroy him or harm him in his person or estate, And the person so threatened Shall Solemnly testify as in the Sight of an All seeing God, that hee hath ground given him to believe that from such threatening hee is in Danger to be destroyed or harmed, either in body or estate; Every such person so threatening as aforesaid, shall be bound over with two Sufficient Sureties to appear at the next Sessions of the County Court, to be holden for such respective County, and so to be proceeded against according to Law, and to be bound to the peace or good behaviour.*

59. THE LAW AGAINST FORNICATION.

Punishment for fornication.

Be it enacted by the authority aforesaid, That if any Single man Commit fornication with any Single woman, hee and shee shall be punished, either by enjoyning Marriage, or fine, or Corporal punishment, or all or any of these, according to the Discretion of the County Court, before whom it shall be proved.†

60. THE LAW ASSIGNING BILLS & SPECIALTIES.

Assignment of bills and specialties.

Be it enacted by the authority aforesaid, That all Bills and other Specialties that Shall be assigned under the hand of

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, pages 4 and 7, Chapters 13 and 26.

† Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 2, Chapter 3.

the Creditor, and Seal of the County, The same shall be as good in Law to all intents and purposes to the assignee, as it was before to the assignor.

61. The Law About Bills of Exchange.

Liability of drawers, &c., of protested bills.

Be it enacted by the authority aforesaid; That if any person within this Province or territories thereof, shall draw bills of exchange upon any person in England or other parts of Europe, and the said Bills shall be returned back unpaid with a legal protest; The drawer and all others Concerned shall be Liable to pay the Contents of the said Bill, together with 20 ℔ cent advance for the damages thereof, and so proportionably for greater or smaller sums, in the same specie as the bills were drawen.*

62 The Law against trusting Mariners.

Mariners not to be trusted, unless captains engage for same.

To the end that no Mariners shall be arrested to hinder their Voyage, *Be it Enacted by the authority aforesaid*, That no person, ordinary keeper or other, within this Province or territories thereof, shall trust any Mariner, without the master of the ship or vessel, (to whom such mariners belong), engage for the same, Otherwise to lose what they so trust.

63. The Law about Passes.

Strangers not to travel without pass.

Arrest and return of offenders.

Be it enacted by the authority aforesaid; That Unknown persons shall not presume to travell or go without the limits of the county wherein they reside, without a pass or Certificate under the seal of that county; And that in every county where such persons shall come he shall renew his pass, And that every person offending herein, shall be liable to be apprehended and sent back to the place from whence hee or shee came, at his or her proper costs and charges, to be levyed on the goods and Chattels of such offenders, by way of Distress and sale, if hee or shee be able, or otherwise to be answered by the Master or Mistress of such offenders, *Always provided, And it is hereby Enacted and Declared*, That every person that comes out of any other province, without the pass of that province, such person belongs to, shall be apprehended, and secured in the house of correction, where hee or

* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 22, Chapter 70.

shee shall labour for his or her sustenance, till notice can be given to the master or mistress of the said Servants; And till such house of Correction be erected, The Sheriff of each County shall take care to secure the said Servant; And what charges such servant shall occasion, more than his or her work will Defray shall be made good by the master or mistress of such servants, And such master or mistress shall over and above give to such persons as shall take them up, twenty shillings for their reward.

64. THE LAW AGAINST SELLING OF SERVANTS OUT OF YE PROVINCE.

Punishment for selling servants out of province.

It is further Enacted by the authority aforesaid, That no master or mistress, or freeman, of this Province or territories thereunto belonging, shall presume to Sell or Dispose of any servant or servants into any other province, that is or are bound to serve his or their time in the Province of Pennsilvania, or territories thereof, Under the penalty, That every person so offending, shall for every such Servant so sold, forfeit ten pounds, to be levied by way of distress and sale of their goods.*

65. THE LAW AGAINST ATTACHING SERVANTS.

Servants not to be attached for masters' debts.

Be it enacted by the authority aforesaid, That no servant white or black, within this Province and territories thereunto belonging, shall at any time after publication hereof be Attached or taken into execution for his Master or Mistresses debt or debts, To the end that the means of Livelyhood may not be taken away from the said Master or Mistris.

66. THE LAW AGAINST HARBOURING SERVANTS.

Punishment for concealing and harboring servants.

Be it enacted by the authority aforesaid, That if any Inhabitant within this Province or territories thereof, shall at any time hereafter, Conceal, Entertain, or harbour any servant belonging to this Province or else-where for the space of twenty-four hours and not make the same known to one of the Justices of ye peace of that County, within the time aforesaid, Every such person shall for that his offence be Lyable to pay the owner of such servant five shillings, for

*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 14, Chapter 49.

every day that such Servant shall be Concealed, entertained or harboured as aforesaid.*

67. The Law Against Trucking with Servants.

Clandestine dealing with servants, prohibited.

Be it enacted by the authority aforesaid, That no person shall at any time hereafter within this province or Territories thereof, give, trust, sell or dispose of any of his or her Master, mistress, or Dame's goods, to any person without the consent of the said master, mistress, or Dame; And if anie person shall at any time hereafter, take, Receive, or possess goods of any kind whatsoever from anie Servant as aforesaid, such person shall, for such offence be lyable to pay to the owner of such Servant, Double the value thereof, And return the said goods to the owner again, or the value thereof.*

Punishment therefor.

68. The Law about Runaway Servants.

Punishment of servants for running away.

To prevent the Running away of Servants from Masters or Mistresses; *Be it Enacted by the Authority aforesaid*, That no Servant shall presume to absent from his or her respective master or mistress or overseer, without Leave or consent, And that every Servant so absenting from his or her respective service, shall serve five days for every days absence, after the expiration of his or her Servitude, and shall further make such Satisfaction for damages, Costs, and charges the said master or mistress shall sustain by the absence of the said servant, as the respective County Court shall see meet.

Reward for apprehending runaway servants.

Be it further Enacted, That whosoever shall apprehend anie Run-away Servant, belonging to any person within this province or Territories, and Cause the same to be secured by a warrant from a Justice of the peace, or deliver him to the Custodie of the sherrif of the place, and give notice publicklie thereof or Deliver Him or Her to the Owner, or to his order, The said person shall have Twentie shillings for a reward from the said owner, and what charges the Sheriff shall be att, above the advantage of Such Runaway's Labor, Shall be paid him by the Owner.*

* The substance of this law embodied in an act for the better regulation of servants, passed in the year 1700—See Bioren's Laws, vol. 1, page 14, Chapter 49.

69. THE LAW ABOUT SUMMONING JURIES.

Sheriffs to summon jurors ten days before court.

And that Due preparation may be made for Dispatch of Justice, *Be it Enacted by the authority aforesaid*, That the Sheriff of every County shall, (ten days before the sitting of the ordinary Court of Justice) Summon a Sufficient number of freemen to attend the said Court, for the service of the said County, and upon the neglect of his duty herein, to be Lyable to pay Double Damages to the party or parties aggrieved.*

70. THE LAW ABOUT EXPORTING HORSES.

Horses not to be exported until viewed, and record made.

And whereas there hath bin Complaint made, That many of the Inhabitants of this Province and territories thereof, hath and may receive much damage by the exporting of horses out of this Province, *Be it therefore Enacted by the authority aforesaid*, That no person shall export or Cause to be exported anie Horse, gelding or Mare out of this province or territories thereof, without first bringing them before such officers as shall be by the Governor authorized to view and record them with their proper marks and sufficient Vouchers of the Credit of the party that so exports them Upon the Penalty of ten pounds for every such horse, gelding or mare.

71. THE LAW ABOUT MONTHLY COURTS.

Monthly and quarterly sessions of courts, to be held.

Be it Enacted by the authority aforesaid, That Monthly and Quarterlie Sessions be Held in every County in this Province and territories by the respective Justices; And that each Quarter Sessions be as well a Court of equity as Law, Concerning any Judgment given in Cases by Law Capable of triall, in the respective County Sessions and Courts.†

Quarter sessions a court of equity.

72. THE LAW AGAINST ROBBING AND STEALING.

Punishments for larceny and robbery.

Be it Enacted by the authority aforesaid, That if any person shall be Legally Convicted of Stealing, or fraudulentlie taking or Carrying away of any Living goods from any Inhabitant or others in this province or territories, And the same goods or things Stolen be found alive, and returned to

* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 81, Chapter 98.

† Supplied by a law passed in the year 1701—See Bioren's Laws, vol. 1, page 33.

the owner, the felon shall make double Satisfaction. And in Case the goods stollen shall be dead goods, or meerly personall or Living goods and not restored The fellon or the thief shall make Three fold satisfaction, and receive Corporall punishment, not exceeding twenty one Stripes.

But if any person by Violent Assault or forcibly shall Robb or take away from any person his or her money, or any goods of any value whatsoever, such shall make four fold Restitution, and receive Corporal punishment, not exceeding twenty one stripes. And in any of these Cases herein, or in the foregoing Paragraphe mentioned, where the party which stole or robbed be not able to make satisfaction accordingly, such fellon, thief or Robber shall be obliged to Servitude or be committed to the house of Correction to be kept there, att hard Labour to the behoof of the party wronged according to the discretion of the Court of Judicature for that Countie where the fact was Committed. And if any person shall be again found guilty of either of the Crimes aforementioned, Shall suffer as at first, and withall shall be soundly whipt not exceeding Thirty one stripes upon his or their bare backs in the most publick place in that division in sight of the Sherrif and such Magistrate or Magistrates, before whom such Judgment or Sentence was passed.*

73. The Law about Appraisers.

Be it Enacted by the authority aforesaid, That every County Court or Sessions, shall and hereby hath power as often as they shall see cause, to appoint and attest, at Least Three Sufficient, honest and discrete persons to be appraisers in each County, in cases where there shall be need, who shall be allowed two pence in the pound only of the goods appraised, and no goods upon execution to be sold before such appraisment made by those appraisers or any two of them, nor before the expiration of Seven days after such appraisment shall be made, to the end the parties concerned may be present at the sale thereof, if they shall see cause; which sale shall be done openly in a publick way and manner, And the overplus Returned by the Officer to the Owner, if any be.†

Appointment of appraisers.

Compensation.

Sales regulated.

74. The Law about Juries not appearing.

Be it Enacted by the authority aforesaid, That everie person being a Freeman within this province or territories being dulie and Legallie summoned to appear in anie Court upon a Jury, and neglects or Omitts to give his attendance

Penalty on defaulting jurors.

* Amended by Chapter 4, of laws passed in the year 1698—See *post*.
† Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 11, Chapter 40.

Shall be fined, not exceeding Tenn Shillings, unles at the next Succeeding Court He Satisfies the Court with the reason of his absence.*

75. THE LAW AGAINST REMOVING LAND MARKS.

Penalty for removing land marks.

Be it Enacted by the authority aforesaid, That no person whatsoever shall cutt, fall alter or remove anie knowne marked or anie Certain bounded tree, or other allowed Land marke, to the wrong of his Neighbour, or anie other person, under the penaltie of any sum not exceeding ten pounds.*

76. THE LAW ABOUT DEBTS PAYABLE IN COUNTRY PRODUCE.

Payment of debts in produce, not required out of season.

Be it Enacted by the authority aforesaid, That all persons within this province or territories Contracting Debts to be paid in fresh pork, tobacco or Corn, at anie particular Debtor's Plantation that shall not be Demanded by the Creditor or his Assigns in their proper Seasons, as from the Last of the eighth month to the tenth of the second month, Then it shall be lawfull for the Debtor to dispose of the said pork, tobacco or Corn, and shall not be oblidged to Comply with the same untill the next eighth month ensuing.

77. THE LAW ABOUT TANNED LEATHER.

Sale of leather before inspection, prohibited.

Penalty.

Forfeiture of insufficient leather, and shoes made therefrom.

Be it Enacted by the authority aforesaid, That no person within this province or territories shall sell or expose to sale anie tanned Leather to anie Shoemaker, before it hath received its approbation and mark of the officer speciallie appointed by the Governour for that purpose, under the penaltie of forfeiting all such Leather, upon proof made of the offence, before anie two Justices of the County Court, And both buyer and seller shall be Lyable to be indicted as for a nusance; Also if any Shoemaker shall presume to make up into Shoes or Boots anie such insufficient Leather, shall forfeit such Shoes & boots. And the appointed Officer is hereby Impowered by a warrant first Obtained from anie Justice of the peace for the said County, to seize any such insufficient Leather, Shoes or Boots made thereof, and bring it to the next County Court to be condemned.†

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, pages 10 and 5, Chapters 35 and 15.

† Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 25, Chapter 74.

78. The Law Against Usury.

Be it Enacted by the Authority Aforesaid, That none shall take Directly or Indirectly for the Loan or use of money or anie Commodities above the value of Eight pounds, for the forbearance of one hundred pounds for a year, and so proportionablie after that rate, and they that Receive or take more shall forfeit the money or other things Lent, and that this Law Continue and be in force for one whole year and no Longer.* Forfeiture for taking exorbitant interest.

79. The Law about Sale of Intestates Land by the Widow or Administrator.

Be it Enacted by the Authority Aforesaid, That anie person who dyed or shall dye intestate, Being owner of lands within this Province or territories, and hath Left or shall Leave Legal issue, It shall be lawful for the Court of Orphans, with the approbation of the Governour and Councill, to impower the widow or administrator in Case of Considerable Debts, chairge of child or Children, to make sale of such parts or tracts of the said Land as the Council and Court shall judge meet, towards the defraying of such just Debts, The education of such child or children, support of the widow, and the better Improving the Remainder of the estate to their advantage, And that this Law Continue and be in force or one whole year and no Longer.† Orphans' court may authorize sale of decedents' real estate to pay debts, &c.

80. The Law about taking land in Execution for Debt.

Forasmuch as by a Law made at Upland, It was enacted that all Lands were made Lyable to pay Debts, with such restrictions and Limitations as are therein expressed For the fuller and more Satisfactorie explanation and alteration of the same, *It is hereby enacted*, That all Lands whatsoever and houses shall be Lyable to Sale upon Judgment and execution obtained against the Defendant his heirs, executors or administrators—With this Due provisoe, That the messuage and plantation with its appurtenances, upon which the Defendant is chieflie seated, may not be exposed to Sale, till the expiration of one year after the judgment Obtained, To the intent that the owner, or anie on his Behalf may endeavor the Redemption of the same And Before such sale shall be made, the appraisment thereof, shall be by twelve honest and discreet men of the neighborhood, and that after such sale All real estate liable to sale upon executions. To be first appraised.

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 5, Chapter 18.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 13, Chapter 46.

and appraisment as aforesaid, the Land shall be and Remain as a free and Clear estate to the purchaser or Creditor, his heirs and assigns forever, as ever it was to the Debtor *Provided allwayes* that lawfull interest be allowed to the Creditor from the time of the said Judgment obtained, untill the time of Sale or Satisfaction, *Provided also* that the Chiefe plantation or messuage shall be the Last to be executed, and that this Law continue for one whole year, till the rysing of the next Generall Assemblie, and until twentie days after and no Longer.*

Interest on judgments.

Chief messuage to be the last sold.

81. THE LAW AGAINST WITNESSES REFUSING TO GIVE EVIDENCE, BEING SUMMONED.

Punishment of witnesses for non-appearance.

Be it Enacted by the authority aforesaid, That anie person Summoned or Required by precept or order from anie Court or Magistrate to give their evidence upon anie matter or difference, and the said person shall neglect his dutie in not appearing accordingly, such person may be fyned att the Discretion of a Quorum of Justices of the present or succeeding Court to the benefit of the partie wronged by his absence.*

82. THE LAW ABOUT THE DIKE AT NEW CASTLE.

Dike to be kept in repair at charge of town.

Whereas there is a certain piece of Mash, Lying att the North end of the town of New Castle, formerlie granted by Governour Andross to the said town, and since confirmed by Governour Penn, on condition they should keep the Dykes in good repair; But it hath been since neglected to the great annoyance of the said town, as also to Strangers; *Therefore it is enacted by the Authority Aforesaid*, that the foot dyke att the north end of the said town Lying between the River Side and the town mash, be sufficientlie made and upheld, at the charge of the said town, Which shall be done by order of the Court of New Castle from time to time; and that evrie person who is taxable within the town of Newcastle, who shall refuse to pay their adjusted proportion of charge in the said work, It shall then be lawful upon Complaint made to the Court, That there shall be a warrant issued out to Levie the same upon the goods and chattels of the said party or partys.

*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, pages 13 and 12, Chapters 48 and 42.

83. The Law about Rangers.

Whereas Divers Complaints have been made against Rangers, *It is hereby enacted by the authority aforesaid*, That from henceforth no Ranger or other person within this Province and Counties annexed, shall presume to take up anie marked Horse, Mare, or other Cattle, but by the owner's order, and that no Unmarked Horses, Mares, Colts, Hoggs or other Cattle shall be deemed and accompted strayes, that are not eighteen months old, Anie law or usage to the contrary notwithstanding.

Marked horses, &c., not to be taken up without orders from owners.

What unmarked ones to be deemed strays.

84. The Law about Determining Debts Under Forty Shillings.

Be it enacted by the authority aforesaid, That upon Complaint made of anie debt or due under Fourty Shillings unto any one Justice of the peace, It may be Lawful for him, and hee is hereby Impowered upon sufficient evidence to hear and determine the same, And in case the partie complained against will not Comply with and satisfie the Judgment, That then such Justice shall Report his Judgment to the next County Court, and the same shall be Recorded by the Clerk of the County Court as good and binding, if the Countie Court approve the same, And in case the party Complained against as aforesaid, is about to Depart the Province or Territories, and the Magistrate be satisfied thereof, the defendant shall be held and obliged either to give securitie for the sum adjudged, or bail to abide by and answer what shall be determined by the next County Court respectively therein, Any Law to the Contrary notwithstanding.*

Hearing and determination of debts under forty shillings.

When judgment to be reported to county court.

And defendant to give security.

85. The Law About the Registry Kept by Religious Societies.

Be it Enacted by the authority aforesaid, That the Registrie kept by any Religious Society in their respective Meeting book or books of any marriage, birth or buriall within this Province or territories, shall be held authentick, and shall be allowed of, upon all occasions.†

Registries of religious societies, to be evidence.

*A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 10, Chapter 36.

† Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 25, Chapter 75.

57. THE LAW AGAINST MURDER.

Murderers and their accessories, to suffer death.

Be it enacted by the authority aforesaid, That if any person within this Province, or territories thereof, Shall wilfully, or premeditately kill another person, or wilfully or premeditately, be the cause of, or accessory to the Death of any person, Such person Shall, according to the law of God Suffer Death; And one half of his Estate Shall go to his wife and Children; And if no Wife nor children, then to the next of his kindred, not Descending Lower than to the third Degree; To be Claimed within three years after his Death; And the other half of his estate to be Disposed of, as the Governour shall see meet.*

How their estates to be disposed of.

58. THE LAW ABOUT BINDING TO YE PEACE.

Surety of the peace, proceedings in cases of.

Be it enacted by the authority aforesaid, That whatsoever person shall threaten another to wound, kill or destroy him or harm him in his person or estate, And the person so threatened Shall Solemnly testify as in the Sight of an All seeing God, that hee hath ground given him to believe that from such threatening hee is in Danger to be destroyed or harmed, either in body or estate; Every such person so threatening as aforesaid, shall be bound over with two Sufficient Sureties to appear at the next Sessions of the County Court, to be holden for such respective County, and so to be proceeded against according to Law, and to be bound to the peace or good behaviour.*

59. THE LAW AGAINST FORNICATION.

Punishment for fornication.

Be it enacted by the authority aforesaid, That if any Single man Commit fornication with any Single woman, hee and shee shall be punished, either by enjoyning Marriage, or fine, or Corporal punishment, or all or any of these, according to the Discretion of the County Court, before whom it shall be proved.†

60. THE LAW ASSIGNING BILLS & SPECIALTIES.

Assignment of bills and specialties.

Be it enacted by the authority aforesaid, That all Bills and other Specialties that Shall be assigned under the hand of

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, pages 4 and 7, Chapters 13 and 26.

† Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 2, Chapter 3.

the Creditor, and Seal of the County, The same shall be as good in Law to all intents and purposes to the assignee, as it was before to the assignor.

61. The Law About Bills of Exchange.

Liability of drawers, &c., of protested bills.

Be it enacted by the authority aforesaid; That if any person within this Province or territories thereof, shall draw bills of exchange upon any person in England or other parts of Europe, and the said Bills shall be returned back unpaid with a legal protest; The drawer and all others Concerned shall be Liable to pay the Contents of the said Bill, together with 20 ℔ cent advance for the damages thereof, and so proportionably for greater or smaller sums, in the same specie as the bills were drawen.*

62 The Law against trusting Mariners.

Mariners not to be trusted, unless captains engage for same

To the end that no Mariners shall be arrested to hinder their Voyage, *Be it Enacted by the authority aforesaid*, That no person, ordinary keeper or other, within this Province or territories thereof, shall trust any Mariner, without the master of the ship or vessel, (to whom such mariners belong), engage for the same, Otherwise to lose what they so trust.

63. The Law about Passes.

Strangers not to travel without pass.

Be it enacted by the authority aforesaid; That Unknown persons shall not presume to travell or go without the limits of the county wherein they reside, without a pass or Certificate under the seal of that county; And that in every county where such persons shall come he shall renew his pass, And that every person offending herein, shall be liable to be apprehended and sent back to the place from whence hee or shee came, at his or her proper costs and charges, to be levyed on the goods and Chattels of such offenders, by way of Distress and sale, if hee or shee be able, or otherwise to be answered by the Master or Mistress of such offenders, *Always provided, And it is hereby Enacted and Declared*, That every person that comes out of any other province, without the pass of that province, such person belongs to, shall be apprehended, and secured in the house of correction, where hee or

Arrest and return of offenders.

*Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 22, Chapter 70.

shee shall labour for his or her sustenance, till notice can be given to the master or mistress of the said Servants; And till such house of Correction be erected, The Sheriff of each County shall take care to secure the said Servant; And what charges such servant shall occasion, more than his or her work will Defray shall be made good by the master or mistress of such servants, And such master or mistress shall over and above give to such persons as shall take them up, twenty shillings for their reward.

64. THE LAW AGAINST SELLING OF SERVANTS OUT OF YE PROVINCE.

Punishment for selling servants out of province.

It is further Enacted by the authority aforesaid, That no master or mistress, or freeman, of this Province or territories thereunto belonging, shall presume to Sell or Dispose of any servant or servants into any other province, that is or are bound to serve his or their time in the Province of Pennsilvania, or territories thereof, Under the penalty, That every person so offending, shall for every such Servant so sold, forfeit ten pounds, to be levied by way of distress and sale of their goods.*

65. THE LAW AGAINST ATTACHING SERVANTS.

Servants not to be attached for masters' debts.

Be it enacted by the authority aforesaid, That no servant white or black, within this Province and territories thereunto belonging, shall at any time after publication hereof be Attached or taken into execution for his Master or Mistresses debt or debts, To the end that the means of Livelyhood may not be taken away from the said Master or Mistris.

66. THE LAW AGAINST HARBOURING SERVANTS.

Punishment for concealing and harboring servants.

Be it enacted by the authority aforesaid, That if any Inhabitant within this Province or territories thereof, shall at any time hereafter, Conceal, Entertain, or harbour any servant belonging to this Province or else-where for the space of twenty-four hours and not make the same known to one of the Justices of ye peace of that County, within the time aforesaid, Every such person shall for that his offence be Lyable to pay the owner of such servant five shillings, for

*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 14, Chapter 49.

every day that such Servant shall be Concealed, entertained or harboured as aforesaid.*

67. The Law Against Trucking with Servants.

Clandestine dealing with servants, prohibited.

Be it enacted by the authority aforesaid, That no person shall at any time hereafter within this province or Territories thereof, give, trust, sell or dispose of any of his or her Master, mistress, or Dame's goods, to any person without the consent of the said master, mistress, or Dame; And if anie person shall at any time hereafter, take, Receive, or possess goods of any kind whatsoever from anie Servant as aforesaid, such person shall, for such offence be lyable to pay to the owner of such Servant, Double the value thereof, And return the said goods to the owner again, or the value thereof.*

Punishment therefor.

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To prevent the Running away of Servants from Masters or Mistresses; *Be it Enacted by the Authority aforesaid*, That no Servant shall presume to absent from his or her respective master or mistress or overseer, without Leave or consent, And that every Servant so absenting from his or her respective service, shall serve five days for every days absence, after the expiration of his or her Servitude, and shall further make such Satisfaction for damages, Costs, and charges the said master or mistress shall sustain by the absence of the said servant, as the respective County Court shall see meet.

Reward for apprehending runaway servants.

Be it further Enacted, That whosoever shall apprehend anie Run-away Servant, belonging to any person within this province or Territories, and Cause the same to be secured by a warrant from a Justice of the peace, or deliver him to the Custodie of the sherrif of the place, and give notice publicklie thereof or Deliver Him or Her to the Owner, or to his order, The said person shall have Twentie shillings for a reward from the said owner, and what charges the Sheriff shall be att, above the advantage of Such Runaway's Labor, Shall be paid him by the Owner.*

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And whereas there hath bin Complaint made, That many of the Inhabitants of this Province and territories thereof, hath and may receive much damage by the exporting of horses out of this Province, *Be it therefore Enacted by the authority aforesaid*, That no person shall export or Cause to be exported anie Horse, gelding or Mare out of this province or territories thereof, without first bringing them before such officers as shall be by the Governor authorized to view and record them with their proper marks and sufficient Vouchers of the Credit of the party that so exports them Upon the Penalty of ten pounds for every such horse, gelding or mare.

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Monthly and quarterly sessions of courts, to be held.

Quarter sessions a court of equity.

Be it Enacted by the authority aforesaid, That Monthly and Quarterlie Sessions be Held in every County in this Province and territories by the respective Justices; And that each Quarter Sessions be as well a Court of equity as Law, Concerning any Judgment given in Cases by Law Capable of triall, in the respective County Sessions and Courts.†

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the owner, the felon shall make double Satisfaction. And in Case the goods stollen shall be dead goods, or meerly personall or Living goods and not restored The fellon or the thief shall make Three fold satisfaction, and receive Corporall punishment, not exceeding twenty one Stripes.

But if any person by Violent Assault or forcibly shall Robb or take away from any person his or her money, or any goods of any value whatsoever, such shall make four fold Restitution, and receive Corporal punishment, not exceeding twenty one stripes. And in any of these Cases herein, or in the foregoing Paragraphe mentioned, where the party which stole or robbed be not able to make satisfaction accordingly, such fellon, thief or Robber shall be obliged to Servitude or be committed to the house of Correction to be kept there, att hard Labour to the behoof of the party wronged according to the discretion of the Court of Judicature for that Countie where the fact was Committed. And if any person shall be again found guilty of either of the Crimes aforementioned, Shall suffer as at first, and withall shall be soundly whipt not exceeding Thirty one stripes upon his or their bare backs in the most publick place in that division in sight of the Sherrif and such Magistrate or Magistrates, before whom such Judgment or Sentence was passed.*

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Appointment of appraisers.

Compensation.

Sales regulated.

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Penalty on defaulting jurors.

* Amended by Chapter 4, of laws passed in the year 1698—See *post*.

† Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 11, Chapter 40.

To be heard and determined by circuit courts.

Authorized to hear and determine great crimes.

Officers to yield attendance.

Sheriffs to conduct judges in and out of their bailiwicks.

And defray expenses.

Compensation of judges.

by the first opportunity after Such appeals are granted. Which Said Circular Courts, shall have the hearing and determining of all appeals from the respective County Courts, both in Law & Equity grantable by the Said County Courts. Which Judges are also hereby authorized & Impowered at the time & places aforesaid to hear and determine Treason, Murder, Manslaughter, Rapes, Sodomy, Buggery, Burglary, & Burning of Houses, in all and every the sd. respective counties. And that all Justices and other officers shall yield due attendance to the said Judges, during the Sitting & Continuance of the said Provincial Court. And the Sheriff of every respective County Shall meet & attend the Judges in & out of their respective Ballywicks & take care to defray the charge of the said Judges, Which said Judges shall be allowed out of the respective County Rates during their Sitting & travelling in that service ten Shillings each for every day.*

(4.) THE LAW ABOUT FORMS OF WRITTS.

Preamble.

And to the end that plainness & brevity may be used, *Be it Enacted by the Authority aforesaid*, That all arrests and summons to answer &c. made according to the following forms, Shall be held Legal & authentick within this government.

AN ARREST.

Form of arrests.

These are in the King & Queens name to Command you to arrest the body of A. B. if found in thy Balywick & him safely keep & have at the next County Court to be held at . . . on the . . . day of the . . moneth next, as well to answer the complaint of C. D. as to abide the Judgment of the said Court, and make Return hereof, and of thy doing herein at the said Court, fail not at thy peril, and for thy so doing this shall be thy sufficient warrant, given under my hand & Seal, this . . . . day of the . . . month, In the . . year of the Reign of W^m & Mary over England . . King & Queen Annoq Domi 16 . To the Sheriff of . . . .

SUMMONS.

Form of summons.

These are in the King & Queens name to Require thee A. B. to be and appear at the next County Court to be held at . . on the . . . day of the . . . month next, To answer the Complaint of C. D., and hereof fail not at thy peril, Given under my hand & seal this . . of the month, in the . . year of the reign of W^m & Mary over England . . Annoq Domi 16 . .*

*Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 32, Chapters 100 and 101.

(5.) THE LAW AGST. PERSONS JUDGING IN THEIR OWN CAUSE.

And to the end that Justice may have its free course in this Province & Territories. Preamble.

Be it Enacted by the authority aforesaid, that no member of a Court of Justice, Shall sit in Judgment while his own Cause is upon trial, And if an appeal shall at any time be made from the judgment of a Court to the Provincial Judges or to the Governour & Council, *It is hereby further enacted*, that no such Judge or member of Council shall sit in judgement or upon that appeal.* A judge not to sit on trial of his own cause. Nor he and member of council upon appeals.

(6.) THE LAW AGT. ABUSING MAGISTRATES.

Be it enacted by the authority aforesaid, that if any person speak slightingly or carry themselves abusively agt. any magistrate or person in office, being duly convicted thereof, shall for every such offence, suffer according to the quality of the magistrate & nature of the offence, provided it be not less than five Shillings, nor more than fifty Shillings.† Punishment for slighting and abusing magistrates and officers.

7. THE LAW AGAINST IMMODERATE FINES.

And be It further Enacted by the Authority aforesaid, That all fines shall be moderate, saving mens contenements, merchandize & wainage, which is to say, the furniture of their calling and means of Livelyhood.† All fines to be moderate.

8 THE LAW ABOUT BAILING PRISONERS.

And be it Enacted by the authority aforesaid, that all prisoners shall be bailable by sufficient sureties, unless for Capital offences, where the proof is evident or the presumption great, and every Quarter Sessions shall be a goal delivery for all prisoners tryable there.† Prisoners bailable. Quarter sessions a jail delivery.

* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 32, Chapter 102.

† A similar law enacted in the year 1700—See Bioren's Laws, vol. 1, pages 11, 10 and 29, Chapters 39, 37 and 83.

9. THE LAW ABOUT THE MANNER OF GIVING EVIDENCE AND AGT. SUCH AS LYE IN CONVERSATION.

How evidence to be given in.

Be It Enacted by the authority aforesaid, that all witnesses coming or called to testify their knowledge in, or to any matter or thing in any Court or before any Lawful Authority within the said province or Territories, may there give or deliver in their evidence, by Solemnly promising to speak the truth, the whole truth & nothing but the truth, to the matter or thing in question. And in case any person so called to give in their evidence shall afterwards be convicted of wilful falsehood, such person shall suffer and undergo such Damage or penalty as the person or persons agt. whomsoever hee bore false witness did or should undergo; and shall also make Satisfaction to the party wronged, and be publickly exposed for a false witness, never to be credited again in any Court or before any Magistrate in the said Province &c and whosoever shall be convicted of Lying in Conversation shall for every such offence pay half a crown or suffer three days Imprisonment in the House of Correction at hard Labour.*

Punishment for bearing false witness.

Punishment for lying.

10. THE LAW ABOUT APPRISERS.

Appointment of appraisers.

Be it further Enacted by the authority aforesaid, That every County Court and Sessions shall & hereby hath power, as oft as they shall see cause, to appoint and attest, at least three sufficient honest and discreet persons to be apprisers in every County in cases where there shall be need; who shall be allowed two pence in the pound only of the goods apprised, And no goods upon executn. to be sold before such apprisement made by those apprisors or any two of them, nor before the expiration of seven days after such apprisement shall be made, To the end the parties Concerned may be present at the sale thereof, if they shall see cause. Which sale shall be done openly in a publick way & manner, and the overplus returned by the officer to the owner, if any be, and in Case the goods apprised will not sell at the price apprised & the creditor shall receive them for pay, according to apprisement, returning the overplus as aforsaid, if any be. And that the said apprisers be allowed two pence the mile for Journey fees.†

Compensation.

Appraisements and sales upon executions.

Mileage of appraisers.

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* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 31, Chapter 99.

† A similar law enacted in the year 1700—See Bioren's Laws, vol. 1, page 11, Chapter 40.

11. The Law about Marriages.

That for preventing of Clandestine, Loose & Unseemly proceedings in this province and territories thereof about Marriages, All marriages not forbidden by the Law of God shall be encouraged, but the parents & guardians shall if conveniently can, be first Consulted with, and the parties clearness of all engagements signified by a certificate from some credible person where they have lived or now do live, produced to such religious Society to which they relate, or to some one Justice of the peace of the County in which they Live, and by their affixing their Intentions of marriage on the Court or Meeting house door of the County wherein they dwell one moneth before the Solemnization thereof. And their marriage shall be Solemnized by taking one another as Husband and Wife before sufficient witnesses. And a certificate of their marriage under the hands of the parties & witnesses, at Least twelve, shall be brought to the Register of the County, where they are married and registered in his office. *Provided always*, that there be at least one Justice of the Peace of the County where such marriage shall be, at the Solemnization thereof. And if any person shall presume to marry or to join any in marriage Contrary hereunto, such person so marrying, shall pay ten pounds, and such person so joining others in marriage shall pay Twenty pounds. *Provided always*, that this Law shall not extend to any who shall marry or be marryed by any person authorized by the Church of England, so as they observe the methods of publication, Licensing & Solemnization required by the Laws & usages of England, nor to any persons that marry in their own Society in the absence of a Justice of the peace.*

Marriages, to be encouraged.

Consent of parents, &c., to be obtained, and publication made.

How solemnized.

Penalty for marrying contrary to law.

Not to extend to certain marriages.

(12.) The Law about Country produce to pass for Pay.

Whereas, there is a necessity for the sake of Commerce in this Infancy of things, that the growth & produce of this Province & territories shall pass in lieu of money. *Be It Enacted by the Authority aforesaid*, that all merchantable Wheat, Rye, Indian Corn, Barley, Oates, Pork, Beef, Tobacco, Hemp & Flax, shall be accounted current pay at the market price in each respective County in this Province & Territories thereof. †

Preamble.

Country produce to be taken in lieu of money.

* Similar laws enacted in the years 1700 and 1701—See Bioren's Laws, vol. 1, pages 7 and 34, Chapters 25 and 109.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 30, Chapter 90.

13. THE LAW ABOUT THE ASSIZE OF BREAD.

Bakers to mark their bread.

Weight fixed.

Be it enacted by authority aforesaid, That henceforth every Baker shall have a distinct mark for his bread and keep the true assize as hereinafter is expressed, viz: When wheat is ordinarily sold for money, at these several rates hereafter mentioned the several sorts of bread by Averdupois weight, shall be according to the following Table.

Price of wheat.	Penny White Bread.	Wheaten Bread.	Household Bread.
3s p bushel .	10 oz . . "	15 oz . . ½	23 oz " "
3" 6d	9 . . . ¼	14 " "	21 " "
4 . . .	8 . . . ¼	12 . . . ¾	19 " "
4 6	7 . . . ¼	12 "	17 " "
5	6 . . . ¼	11 . . . . ¼	16 " "
5 6	6 . . . . "	10 . . ½	14 . . . . ¾
6	5 . . . . ½	9 . . . ¾	13 . . . . ¼
6 6	5 . . . . "	9 . . . ¼	12 . . . . "

Forfeiture for short weight.

and so proportionately under the penalty of forfeiting all such bread, as shall not be of ye several assizes aforementioned, to the use of the poor, where the offence is Comitted, & otherwise as is hereafter expressed.

Appointment of officers to weigh bread.

And for the better execution of this present Law, there shall be in every market town & in all other towns needful one or two able persons annually chosen by the respective County Courts, who shall be attested truly to perform his or their office, who are hereby authorized to enter into all houses, either with a constable or without, where they shall suspect or be informed of any bread baked for sale, as also to weigh the said bread as often as they shall see cause, and seaze all such as they shall find defective. As also to weigh all butter made up for sale, or brought into or being in the town or market to be sold by weight, which if found light, after once notice be given, shall be forfeited in Like manner. The Like penalty shall be for not marking all bread made for Sale, and the sd officer shall have one third part of all forfeitures for his pains, the rest to the poor as aforesaid. *And further*, to prevent fraud, that all persons within this Province and territories thereof which shall usually sell bread within doors or without, shall at all times hereafter have all their bread that they either put to sale, or spend in their families made of the due assize, marked & yielded to trial of the said officer, as is directed in the Law aforesaid, under the penalty herein expressed.*

To weigh butter also.

Forfeiture for short weight

Penalty for not marking bread.

Disposition of forfeitures.

All bread to be weighed and marked.

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 17, Chapter 51.

14. THE LAW ABOUT TESTATES AND INTESTATE'S ESTATE.

And be it further enacted by the authority aforesaid, That all Real estates and Lands, tenements and Hereditaments, and all personal estate which any person hath in this Province, and territories at the time of his Decease, shall be liable, either by conveyance or Bill of sale, Duly executed by the lawful executor or administrator of such Deceased, and approved and acknowledged in Open Court according to law, or by Judgment and Order of the respective Courts of Record, upon Due procedure therein had, To be seized and sold for payment of the Decedents just debts, so far as the same estate shall extend in due order of law; That is to say, first funeral expenses, Then debts and duties due to the governour, Then judgments; Then debts by Recognizance; Then debts by obligation; Then Bills, Then Rents, Then Servants and workmen's wages, Then merchant's books, lately contracted, and promises by word, arrears of accompts, and such like; Which said sale and seizures are hereby Declared to be binding and Conclusive against such deceased and their heirs and all Claiming under them.

Estates of decedents, liable for payment of their debts.

Order of payment.

AND after all Debts are paid as aforesaid, then the surplusage or residue, if any be, of all the Testator's said personal estate, shall be by the executors divided and proportionably Distributed according to their last wills. And that the surplusage or Residue of an Intestate's personal estate, (all debts being paid as aforesaid,) shall be thus Disposed of and Distributed, *To Wit:* One-third part thereof to the wife of the Intestate, The residue amongst his children, and such as legally represent them, (if any of them be dead), the eldest son having a double part or share; And if there be no children nor Legal representatives of them, One moiety shall be allotted to the wife, the residue, equally to the next of kindred to the Intestate in equal Degree and those who represent them; And if the Intestate leaveth no wife, child or children, It shall go to his brothers and sisters, if any be, or to the children of such brothers and sisters. And in case no such be, it shall go to the parents, and for want of kindred, the one-half to the Governour for the time being, And the other half to the public stock of the county where such estate lyeth. And the personal estate of an Intestate widow, shall go to her child or children, the same to be disposed of, as aforesaid. And the personal estate of a Single man or woman, dying Intestate, shall go to to his and their brothers and sisters, if any be, and for want of such, then as before Limited. *Provided always*, that where such Testators or intestators said personal estates are sufficient to pay all Debts and Damages owing by them at the time of their Decease with all charges incident thereunto, That then their respective Real estate aforesaid shall be disposed of, and distributed in manner following: That is to say, all Testator's Real estate to be Invested and remain as their Last wills and Testaments devise the same; And one-third part of all intestate's lands and tenements to the wife for her life. The Residue and Remainder thereof to be allotted and Distributed in the

How personalty to be disposed of, after debts are paid.

Disposal of real estate where personalty sufficient to pay debts.

same manner as the surplusage of the Intestate's personal estate, as above limited and directed.

By whom and when distributions to be made.

ALL which distributions of the Remainders and Surpluages, as well of the Testate's as intestate's estate, are to be made by the Register-General for the time being, within twelve months after the Decedents Death. And every one to whom any shares shall be allotted, shall give bond, with sureties, to the said Register-General, that if debts afterwards be made to appear, he or she shall Refund his or her Rateable part thereof, and of the executors or administrator's charges accruing thereby.

Persons receiving distributive shares, to give bond.

When claims to be barred.

AND that all such of the Intestate's relations and persons concerned who shall not lay Legal Claims to the said estate, within three years next after the Decease of the Intestate party, shall be Debarred forever.

Executors and guardians to give bond.

And be it further enacted by the authority aforesaid, That all Executors, and Guardians to persons under age, shall give sufficient bond to the Court of Orphans, in the precincts where they Live, faithfully to Discharge their Trust; and that the said obligation shall stand in full force and virtue, till they have passed their accompts in Court and are Legally Discharged. And if any man shall Refuse this honest Care and Charge in the government, unless he have five children to take care of, or is already executor to one will, or hath persons nearer related to him, who in all likelihood, will Impose that Charge upon him, he shall be fined at the Discretion of the aforesaid Court, who shall appoint one to administer in the room of such person, to the ends expressed in the will of the testator.*

Refusal to accept charge.

15. THE LAW ABOUT KILLING OF WOLFS.

Premiums for killing wolves.

And be it enacted by the authority aforesaid, That if any person within This Province or Territories thereof shall kill a Dog-Wolf, hee shall have ten shillings, and if a Bitch-Wolf, fifteen shillings, To be paid out of the publick Stock of the County. *Provided*, such person brings the Wolfs head to one of the Justices of the peace of that County, Who is to Cause the ears and tongue of the said Wolf to be cut off The benefit of this Law to extend to Indians as well as others.†

16. THE LAW ABOUT BUILDING BRIDGES.

Bridges to be built over streams.

And be it further enacted by the authority aforesaid, That Bridges shall be built over small Creeks & Rivers, which are difficult and apt to be High by sudden rains, in the King's Highway, from the falls of Delaware to the southern most parts of Sussex County, within the space of eighteen months.

* A similar law passed in the year 1697—See *post*.

† Supplied by a law passed in the year 1700—See Bioren's Laws, vol 1, page 22, Chapter 69.

after the rising of this General Assembly. Which Bridges shall be ten foot broad and a Rail on each side the said bridge, and that all trees & stumps of trees, that Lye in and Cross the way, Shall be cleared, and all passages into and out of all Creeks and branches shall be made Safe and easy both for Cart and Horse at the Charge of each respective County in manner aforesaid: And the County Courts shall every seventh moneth yearly choose and appoint three overseers, at Least, for the Highways, upon the penalty of ten pounds. And such overseers shall summons in all the Inhabitants of their respective Limits to Come in & work at the making & mending all Highways & bridges therein, upon the penalty of five pounds, And every Inhabitant so summoned as aforesaid that shall not appear and do his Labour, Shall pay per day Twenty Shillings for every such neglect to the respective overseers towards Repairing the Highways & bridges.*

Specifications, and how to be constructed.

Overseers of highways, to be appointed.

To summon inhabitants to perform work.

Penalty for neglect to work.

17. The Law about County Levies.

Whereas, there is a Continual occasion for a publick stock to defray the necessary Charges in each County, for the support of the Poor, building of prisons, or repairing them, paying the salary belonging to the Assembly, paying for Wolfs' Heads, the Judges expence, with many other necessary charges. *Be It Enacted* that once every year, and oftener, if occasion be The Justices shall, either at their Quarter Sessions, or at a Sessions for that purpose appointed, Calculate the publick charges of the County & Shall allow all Just accompts, and make a Rate or assessment for the speedy raising the Sd. sums payable from the County, to Defray the Said accompt so as aforesaid allowed. *Provided also* That the Grand Jury shall present any sum necessary to be raised, either for the paying any publick Debt, or other occasion for the publick Utility of the County, It Shall be lawful for the Sd. Justices to make the said Rate or assessment, which shall be raised in the same manner as moneys are by the Sessions agreed to be raised for the support of the government. Viz: After the Rate of one penny per pound and six shillings upon the poll, and so proportionably for a greater or Lesser sum. But if the Sd. Grand Jury Shall neglect to present the sum or sums necessary to be raised for payment of the County Debts, The said Justices are hereby nevertheless authorized and Required to make the said rate or assessment. *Provided always* That (for the further encouragement of the Justices or Overseers of the poor to Disburse money on any sudden or emergent occasion for the reliefe of the poor) Out of the first moneys that shall henceforth be raised by assessment, to pay the County charges, the moneys Laid out for the poor Before any other Disbursement or payment shall be

Preamble.

Justices to estimate public charges.

And make assessment.

Sums presented by grand jury, to be raised.

Rate of assessment.

Moneys for support of poor, to be first paid.

*A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 20, Chapter 57.

made shall be first and fully satisfied & paid. *Provided always* That Debts formerly Due from the County, may be in like manner raised, as those which Shall be hereafter Due.

18. THE LAW ABOUT WEARS.

Wears not to be constructed across streams.

Penalty.

Not to extend to mill dams.

Be It Enacted by the Authority aforesaid, That there shall be no wears made, from one side of any Creek or River, to another. And whosoever shall be Convicted of offending therein, Shall for every such offence pay ten shillings, and the wear be Destroyed, *Provided always*, that this act shall not extend to any Mill Dams erected or to be erected within this government.*

19. THE LAW AGT. HOGS GOING AT LARGE IN PHILADELPHIA OR NEW CASTLE TOWNS.

Preamble.

Forfeiture of swine and goats found running at large.

Owners residing without town bounds, to pay charges for taking up animals.

Court to appoint officer to execute law.

Town bonds, defined.

Whereas, Divers Complaints have been made, That Hogs & Goats Running at Large in ye Towns of this Province and Counties annexed, are in many respects very prejudicial to the Inhabitants, more especially in the towns of Philadelphia & New Castle by Destroying fences, pastures &c. *Therefore be it enacted by the authority aforesaid, And it is hereby enacted*, that no person or persons Living within the bounds of the town of Philadelphia, between Delaware & Schuylkill, and within the bounds of the town of New Castle, shall Let or suffer any Hogs, Sows, Shoats, piggs or goats, to go at Large in the Streets or Comons of the said towns, upon forfeiture of all such Hogs, Sows, Shoats, piggs & goats, Which for the future shall be for the use of the respective Counties. And if any Hog, Shoat pigg or goat belonging to any Inhabitant Living out of the said town bounds hereafter limited and bounded, shall be found at Large within the sd. bounds of the sd. respective towns, The owner or owners thereof shall pay nine pence a time for every Hog, Shoat &c aforesaid, for the use aforesaid, hereby appointing & Impowering the respective County Courts to appoint an officer or Beadle to take care that this Law be put in execution in such method as the said respective Justices shall think fit. That part of the town of Philadelphia hereby intended Is the North and South bounds thereof, Running straight on both sides from the River Delaware to the Skuil-kill. The Town bounds of New Castle hereby intended is, The sd. town as Laid out, together with the Marsh on the North end of the said town.†

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 20, Chapter 58.

† A general law to the same effect passed in the year 1700—See Bioren's Laws, vol. 1, page 25, Chapter 77.

20. The Law About Officers Fees.

To prevent exaction in officers and to reduce the Table of fees to a greater certainty, *Be it enacted by the authority aforesaid*, That the Preamble.

	£	s.	d.	
Clark's fees shall be, For all actions entered & withdrawn before the Court	—	6	—	Fees of clerk.
For every action upon Confession of Judgment or *Nihil Dicit.*	—	10	—	
For every action Coming to trial by Jury & Judgment	—	15	—	
For every transcript of the Records upon appeal be it more or less	—	6	—	
For acknowledging a Deed in Court	—	2	—	
For enterring the appeal & Recognizance to prosecute	—	3	—	
The fees in the Provincial Court, double of what is allowed in the County Court	—	—	—	
The Sheriff's Fees shall be				Sheriff.
For every action withdrawn before the Court	—	6	—	
For every action coming to Judgment by confession or verdict	—	10	—	
For every execution under twelve pounds	—	6	—	
For all sums above, six pence per pound, with the necessary charge of portage or carriage	—	—	—	
To the Sheriff for every Cause in the Provincial Court, Coming in by Appeal	—	6	—	
To the Sheriff for a prisoner discharged in Criminal Casses	—	15	—	
To the Clark (to be paid by the	—	12	—	
To the Attorney General { prisoner.	—	12	—	
To the Juries, eight shillings for every cause	—	8	—	
To the witnesses, two shillings *per diem*	—	2	—	
To the Justices for every cause in Court	—	4	—	
For a Special Court	—	4	—	
The Coroner shall be allowed as heretofore, That is to say				Coroner.
For viewing a dead body	—	10	—	
A warrant to Summons the Inquest	—	2	—	
Entering verdict of the Inquest	—	1	—	
Returning the Inquest	—	1	—	
To the Inquest per man	—	3	—	
Arresting the Sheriff or any other person	—	3	—	
The Master of Rolls fees				Master of rolls.
For Recording the Laws & Statutes of this Province in parchment and in a fair close hand, for every line, one half penny, to be paid by the publick with the parchment & Line	—	—	½	
For recording Deeds, Conveyances and other things which appertain to the Rolls Office, he shall have for every Line as it stands recorded in a fair close hand, Hee finding paper or parchment, per line	—	—	1	

		£	s.	d.
	A Copy of any Record, for every Line as it stands recorded	—	—	1½
	For a search of any Roll or Record	—	1	6
Register general.	The Register General's fees shall be as Heretofore hath been used			
Justice's clerk.	To the Justice's Clark			
	For every warrant or mittimus	—	1	—
	For Every Recognizance	—	1	—
	For Every deposition or affidavit	—	1	—
	For every Certificate or pass	—	1	—
Constables.	Constable's Fees			
	For serving a warrant	—	1	—
	For travelling Charges, a penny per mile for going & a penny per mile for Coming	—	—	1
	For his attendance upon every Jury	—	—	6
Criers.	Cryers fees—for every action called in Court	—	—	9 *

21. THE LAW ABOUT FERRYS.

Preamble. *Whereas*, by Reason of the great resort of people to & from this town of Philadelphia over Neshamine-Creek, there is occasion of a ferry to be erected over the same.

Ferry boat to be kept. *Be it therefore enacted by the authority aforesaid*, that there shall be a ferry boat, for men & horses kept in the most convenient place over the said Creek; But in case any person that lives Convenient to the ferry place on Neshamine shall refuse to build a boat and keep the Sd. ferry, It shall be Lawfull for any other person that will build a house, to have Twelve acres of Land on the said place, paying yearly so much as the County Court shall adjudge reasonable to the owner of such land.

Rates of ferriage. *And be It Enacted by the Authority aforesaid*, That between the falls of Delaware & New Castle, the ferry rates shall be as follows, viz: Over Delaware River att or near the falls or neer Burlington, two pence a passenger; Four pence a Head for oxen, bullocks, Cows, heifers, horses & mares; And one penny a head for sheep and hogs; But for men and horse, Loaden or unloaden, six pence. Over Neshamine, one penny a passenger, and two pence for a horse. If swom, but a penny.

Over Skuil-kill, Two pence a head for oxen, bullocks, Cows, Heifers, Horses & Mares; one half penny a head for Sheep & Hogs, and two pence a single passenger; and one penny a piece for all passengers above the number of one; But for men & horse Loaden, or unloaden, three pence. Over Brandywine or Christeen, two pence a passinger; but for a man with horse loaden or unloaden four pence, and for the foresaid Cattle, the rates above set down as over Skuil-kill.†

* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 32, Chapter 103.

† Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 20, Chapter 60.

22. The Law about the Custom of the Country to servants.

Be it enacted by the Authority aforesaid, That Every servant brought into this Province or territories hereunto belonging without Indentures or Covenant for the time of his service, every such Servant, under sixteen years of age shall serve till they are Twenty one years old. And all those above sixteen years old, shall serve five years, of which age each respective County Court wherein they do reside, shall be their proper Judge. Terms of service fixed. Age for discharge to be adjudged by court.

And every master or mistress shall be bound to bring such servant within three months time, before the Sd. Court to be adjudged as aforesaid, and shall then and there oblige themselves to pay to every servant at the expiration of their time according to the Custom of the Country: Which Custom shall always be accounted two sutes of aparrel, whereof one to be new, Ten bushells of wheat, or fourteen bushels of Indian Corn, one ax, two hows, one broad & the other narrow, and a discharge from their service.* To be paid according to custom of country.

23. The Law about Recording of Deeds.

To prevent any Damage or Inconveniency that may arise for not Recording of Deeds, gifts, grants and charters, enjoyned by the Late Laws of this government: *Be It Enacted by the Authority aforesaid*, That such writings though they wer never Recorded nor enrolled according to Law; yet they are hereby indemnified & are declared as good and authentick, as if they had been duly entered and enrolled. And it is the true meaning of this act that no Deeds or other writtings shall be required to be recorded but that such Deeds and writings as Shall be enrolled or registered in the Rolls office, and the exemplification of the Records of the same in all Courts of Judicature, shall be allowed & Judged as valid as the original.* Preamble. Deeds not recorded, declared valid. All enrolled in rolls' office, and exemplifications thereof, made evidence.

24. The Law agt. Cutting Timber Trees.

Be it enacted by the authority aforesaid, That if any person within this Province & Territories thereof, Shall at any time after publica[n] thereof, presume to cut or fell any timber trees upon the land of any other person, without leave, such person shall forfeit to the owner thereof fourty shillings for every such tree as aforesaid.* Punishment for cutting timber without permission.

* Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, pages 14, 6 and 29, Chapters 49, 24 and 81.

25. THE LAW ABOUT EDUCATION OF YOUTH.

Preamble.

And to the end that the poor as well as the rich may be instructed in good & Commendable Learning, which is to be preferred before wealth. *Be It Enacted by the Authority aforesaid*, That all persons in this Province & Territories hereof having children & all guardians and Trustees of Orphans (having sufficient estates and ability so to do) shall be instructed in reading and writting; so that they may be able, at least, to read the Scriptures, & write by the time they attain to Twelve years of age. And that they be taught some useful trade and skill, that the poor may work to live and the rich, if they become poor may not want, of which every County Court shall take care. And in case such parents, guardians overseers shall be found deficient in that respect, every such parent, guardian or overseer, shall pay for every such child, five pounds, except there should appear an Incapacity in body or understanding to hinder it.

Children to be instructed in reading and writing.

And be taught trades.

Payment for instruction.

26. THE LAW ABOUT RATES OF MONEY.

Preamble.

Whereas, the Inhabitants of this Province & Country &c Have for divers years Laboured under many Difficulties & inconveniencies in their Commerce and trade, through the scarcity of money and uncertainty in ye valuation thereof. For prevention of which & for the encouragement of Importation of money to promote trade and ease the people. *Be it Resolved by the Authority aforesaid*, That all Peru peeces of eight, not less than twelve pennyweight and all Lyon dollars not clipped, shall pass for six shillings. And all peeces of eight, viz: pillar, Mexico & Sevil weighing thirteen penny weight, six shillings and two pence And fourteen pennyweight, six shillings and four pence. And fifteen pennyweight six shillings and six pence.

Valuation of coins.

And sixteen pennyweight, six shillings and nine pence. And seventeen pennyweight seven shillings.

And all half peeces of each sort, proportionably. And all Quarter peeces (peru excepted) twenty pence. And all Ryals (peru excepted) ten pence.*

27. THE LAW ABOUT FACTORS & THEIR EMPLOYERS.

Preamble

To the Intent that the estates of factors or Correspondents shall make good all just debts due their employers, and that the estates or effects of merchants or employers shall discharge all just debts, due to their factors or correspond-

* Supplied by a law passed in the year 1700—See Bioren's Laws vol. 1, page 23, Chapter 62.

ents. *Be It Enacted by the Authority aforesaid*, That all factors or Correspondents in this Province or Territories defrauding their Employers, shall make Restitution & one third over to the said Employers. And in case any factor shall dye and shall not have sufficient estate to pay his debts. It shall be lawful for the respective Courts or any two justices of the peace to secure the goods, proper credits & effects of his employer or employers, for his or their proper use or uses, and give due & speedy notice thereof accordingly to the said employers, To the end, that they may Receive the same paying necessary charges. And in case any factor, attorny or correspondent shall Contract any debts, or really disburse any sums of money or other thing for the carrying on his employers affairs (according to order and Direction) either within this Province & Territories or parts adjacent, and also that such Employers shall order out, dispose of or sell their effects and estates here without making satisfaction to their sd. factors or Correspondents for all such debts & other things Due and laid out as aforesaid, unless provision be thereupon made for payment thereof, such Sale shall be of no effect, until the same be discharged. That the respective County Courts in all such cases (upon Complaint entered & sufficient proof made of such Debts & dues in open Court) may pass judgment agt. such employers for the same, with costs and Dámages and award execution for the same.*

Factors defrauding their employers, to make restitution.

Proceedings in case of death.

Estates of employers to discharge debts due factors.

Courts may give judgment, and award execution.

28. The Law about Cask and packing meat for Transportation.

Whereas, It is the interest of all governments to exercise truth and uprightness in all their dealings & Commerce, which many persons for by^e^ ends do so often violate *Wherefore* That the Comodities generally exported to forreign markets, may be good in respect of their quality, and Compleat in respect of their Quantity, and to prevent differences about measures. *Be It Enacted by the authority aforesaid*, that all Tight Cask for Beer, Ales, Cider, pork, beef & oil, & all such Comodities shall be made of good sound, well seasoned white oak timber, and to Contain as followeth—viz: The Puncheon, Eighty four gallons. Hogshead sixty-five gallons. Tierce fourty two gallons. Barrels, thirty one and a half gallons. Half barrels, sixteen gallons wine measure, according to the practice of our neighbouring Colonies. And that all Coopers shall set their respective marks on all such Cask, on the penalty of forfeiting the said Cask. And to prevent the exporting of unsound and unmerchantable beef & pork. *Be It further Enacted* That no person after the publica^n^ hereof, Shall presume to ship any beef or pork, before it be

Preamble.

Casks, of what to be made, and size of.

To be marked.

Beef and pork intended for export, to be inspected, &c.

* A law of like import with part of this was agreed on in England, Number 33. It was confirmed by the first Assembly, held in the year 1682, and continued until the making of this act—Bioren's Laws, vol. 6, Appendix, page 46.

first viewed, pack't or repack't by an allotted officer or packer, Which shall (after the said officers view & approbac[n]) be markt with the said officers mark. And any person that Shall Ship on board any vessel in order to be transported, without these mark, shall forfeit all such goods so unmark't. *Provided also* that every County Court shall have power to nominate packers for each County, who shall have nine pence per barrel for packing, pickling & heading the same. And that a meter be appointed to measure indifferently with a round strikle all sorts of Imported Salt and grain & to have four pence per score, To be paid, one moity by the Buyer & and the other by the seller. And to the end, That all Bisket and flower made for transportation, shall be well made & honestly & truly pack't, for the encouragement of trade & credit of the Province; And that the Kings subjects beyound the sea may not be cheated. *Be it Enacted by the authority aforesaid*, That all persons that make flower and Bisket for Transportation, shall sett their marks on their Casks before shipt., on the penalty of five shillings for every such Cask shipt unmark't as aforesaid. And if any bread or flower shall pass out of this Province or Territories false pack't, and the same shall be Returned, all such persons so offending, Shall pay to the parties wronged all damages and charges.*

Forfeiture of unmarked goods.

Appointment and compensation of packers.

Measurer of salt and grain.

Penalty for shipping flour and biscuit in unmarked casks.

Damages from false packing.

29. THE LAW ABOUT INDIAN TRADERS.

Preamble.

Whereas, great Complaint hath been made, That divers persons who are non-residents and unsettled come into this Province and privately and clandestinly deal and trade with the Indians, who by reason of their non Residence as aforesaid and frequent Removall from one province to another, are not carefull in maintaining a fair Correspondence with the sd. Indians, and often oppress and abuse them in their way of trading and dealing with them, which may provoke and stir up the sd. Indians to a Revenge of the said abuses, To the great prejudice & disquietude of the Inhabitants of this Province, who are civil therein, and Have been instrumental in the Settling, prosecuting and advancing the welfare and well being thereof. *Be it Enacted and it is hereby Enacted by the Authority aforesaid*, That no person non-Resident, either on Shoar or on board any vessel (except such as Come here with their families with an Intent to settle) deal or trade with any Indians within this government, upon any pretence whatsoever, upon the forfeiture of five pounds, for every such offence & the goods so purchased, one half to go to the public use of the County & the other to the discoverer. *And be it further Enacted*, that no Inhabitant within this Province & Territories from henceforth, under the penalty aforesaid, shall presume to trade with the

Non-residents prohibited from trading with Indians.

Punishment therefor.

Inhabitants not to trade with them clandestinely.

*Supplied by a law passed in the year 1699—See *post*.

Indians in the woods, at their towns or wigwams, after any private or clandestin manner, but at their respective mansion houses, which sd. dwelling houses shall be adjudged so to be by the respective Court in each County, any law, custom, or usage, to the Contrary notwithstanding.*

30. The Law about Whalers.

Preamble.

Whereas, the Whale-fishing or killing of Whales within the bay of Delaware hath been for the most part managed by forreigners & strangers, and the oil & bone by them got, transported out of this government; Whereby the persons Inhabiting therein have not only reaped no benefit, but have also been discouraged from putting themselves foreward in the whaling design to our great disadvantage. *Be it therefore Enacted by the Authority aforesaid*, That all persons not Residing withing this government or within the precincts of West Jersey, that shall kill or bring or spear any whales within Delaware Bay aforesaid, or within the precincts of this government, Shall pay the tenth part of all the oil and bone made out of the said whales unto the present Governour of this province for the time being

Royalty to be paid by foreigners for killing whales.

THE LAWS MADE AND PAST

By Benjamin Fletcher, Captain General & Governour in Chief of the Province of Pennsilvania & Country of New Castle & the Territories & tracts of land depending thereon in America, By & with the advice and Consent of the Council & Representatives of the sd. Province & Country &c In General Assembly met at Philadelphia ye tenth day of April & ninth of June in the sixth year of the Reign of our Soveraign Lord and Lady William & Mary, by the grace of God, of England, Scotland, France & Ireland King & Queen, Defenders of the faith &c, Annoq Domi, 1694.

1. The Law for Regulating Weights & Measures.

Standards of weights and measures, to be obtained for Philadelphia and New Castle.

Be it Enacted by the Authority aforesaid, That in the towns of Philadelphia & New Castle, there shall be had & obtained in two years time next after the making this Law, at the charge of the said Counties, to be paid for out of the County Levies, standards of Brass for weights and measures, according to the Kings standards of the Exchequer, which Standards shall remain with such officer in the Counties

To remain in custody of officer.

* Re-enacted in the year 1700—See Bioren's Laws, vol. 1, page 32, Chapter 104.

aforesaid as shall be from time to time appointed by the Governour with the advice of the Council. And every weight according to its scanting & every measure, as Bushels, half bushels pecks, gallons, pottles, quarts & pints, shall be made just weights & measures & marked by him that shall keep the Standards. And that no person within this government Shall presume to buy or Sell by any weights or measures not Sealed or marked in form aforesaid, and made just according to the Standards aforesaid by the officers in whose possession the said Standards remain, on penalty of forfeiting five shillings to the prosecutor, being Convicted before one Justice of the peace of the unjustness of his weights or measures. And that once a year, at least, the said officer with the assistance of the Grand Jury or the major part of them, or for want of the Grand Jury with such as shall be allowed or appointed by the respective County Courts aforesaid for assistance, shall try the weights & measures in the Towns of Philadelphia & New Castle. And those weights & measures as are defective to be Seized by the said officer & assistants. Which said officer for his fees for making every Bushel, half bushel & peck, just measure, & marking the same that is large enough when brought to his hands, shall have ten pence, for every lesser measure five pence, for every yard three pence, for every hundred & half hundred weight being made just & marked three pence, for every Lesser weight one penny. And if the weights & measure be made just before they be brought to him, then to have but half the fees aforesaid for marking the same. And if the sd officer shall Refuse to do any thing that is enjoyned by this Law for the fees appointed, & be Duly Convicted thereof, shall forfeit five pounds to the use of the King. *Provided always, and it is hereby enacted*, that the Brass half bushel now in the town of Philadelphia & a Bushel & a peck proportionable, and all Lesser measures & weights Coming from England being duly Sealed in London, or other measures agreeable therewith, shall be accounted & allowed to be good by the aforesaid officers, until the Said Standards shall be had & obtained.*

Weights and measures, to be verified and marked.

Penalty for selling by ones not marked.

To be tested once a year.

Defective ones, to be seized.

Fees of officer.

Punishment for neglect of duties.

Certain weights and measures good until standards obtained.

2. THE LAW ABOUT TOBACCO HOGSHEADS.

Preamble.

Whereas, Divers abuses & wrongs have been done in the Territories of this Province by packing of Tobacco in green or unseasoned Cask, as also by the weight of such Cask, exceeding the usual & accustomary tares, and also by the unsiseableness thereof to the great prejudice, damage & uncertainty of the buyers & transporters. To Prevent which for the future, *Be it Enacted by the Authority aforesaid*, That all Tobacco Hogsheads shall be made of sound & well

*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 23, Chapter 72.

Seasoned Timber, three foot ten inches in length, and two foot four inches in the head, and not to exceed one hundred pounds in weight, And that each planter shall set on each Cask the true weight or tare thereof, under the penalty of ten Shillings per hogshead, For which Hogshead well made & hoopt the buyer shall pay or allow to the planter or Seller of tobacco, three shilling and six pence per Hogshead. And whosoever shall be Convicted before any two Justices of the peace in the Province or Territories of Selling tobacco in Cask so weighing above one hundred pound & tares less than they weigh, by six pound, Shall pay ten Shillings, To be Levyed upon their goods & chattells to the use of the party wronged. Which said six pound is allowed in consideration of the difference between Stilliards & Scales. *And be it further Enacted*, That the planter have one half of his Hogsheads set up by the tenth of October & the other half by the tenth of May yearly and every year.*

Tobacco hogsheads, of what to be made, and size and weight of.

Weight to be marked thereon.

Allowance for hogsheads.

Penalty for selling by false weight.

When hogsheads to be set up.

3. The Law about Importation of Tobacco by Land from Mary-Land.

Whereas, several quantities of tobacco have been brought by Land into this Province & Territories from Maryland, to the discouragement of the planters & Inhabitants of this Province & Territories. *Be It therefore Enacted by the Authority aforesaid*, That whosoever shall Convey and bring by land any tobacco out of Maryland into this Province or Terrritories, The Kings duty not first paid, being duly convicted thereof in any Court of this government within six months after the offence Comitted, shall pay ten Shillings for every hundred weight so Carryed or brought, over and above the penalty Imposed by the act of Parliament in England, The one half to the King, and the other half to the Informer.

Preamble.

Penalty for importing tobacco from Maryland without payment of duty.

4. The Law agt. Usury.

Be It Enacted by the Authority aforesaid, That none shall take directly or Indirectly for the loan or use of money or any other Comodities, above the value of eight pounds for the forbearance of one hundred pounds for a year, and so proportionably after that Rate; And they that Receive or take more Shall forfeit the money or other thing lent; The one half to the use of the King, the other half to the Informer.†

Taking excessive interest, prohibited.

Forfeiture therefor.

* Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 26, Chapter 80.

† Re-enacted by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 5, Chapter 18.

5. THE LAW ABOUT TAKING LANDS IN EXECUTION FOR DEBTS &c.

Preamble.

For as much as by a law made at Upland It was Enacted that all Lands were made Liable to pay Debts, with such restrictions and Limitations, as are therein expressed. For the fuller & more satisfactory Explanation & alteration of ye same. *It is Hereby Enacted*, That all Lands whatsoever and Houses, Shall be Liable to Sale upon Judgment & Execution obtained agt. the defendant, his heirs, exrs. or admrs.; With this due proviso, that the messuage and plantation with its appurtenances upon which the defendant is chiefly seated, may not be exposed to sale, till the expiracon of one year after the Judgment obtained, to the intent that the owner or any on his behalf may endeavour the redemption of the same; And before such sale shall be made the apprisement thereof shall be by twelve honest and discreet men of the neighborhood, and that after such Sale & apprisement as aforesaid, the Land shall be & remain as a free & clear estate to the purchaser or creditor his heirs & assigns forever, as ever it was to the debtor. *Provided always*, That Lawful interest be allowed to the creditor from the time of the sd. Judgmt. obtained, until said time of sale or Satisfactn. *Provided also* that the Chief plantacon or messuage Shall be the last to be executed.*

Lands and houses, liable to sale on execution.

Homesteads not to be sold until one year after judgment obtained.

To be appraised before sale.

Allowance of interest to creditors.

Chief plantation to be the last sold.

. THE LAW ABOUT SALE OF INTESTATES LANDS BY THE WIDOW OR ADMINISTRATOR.

Real estate of intestates may be sold for debts, &c.

Be it Enacted by the Authority aforesaid, That any person who Dyes, or that Shall Dye Intestate, being owner of Land within this Province or Territories thereunto belonging, and hath left, or shall leave Legal Issue, It Shall be Lawful for the widow or administrator, in case of Considerable debt, charge of child or children, to make Sale of such part or Tracts of the sd. Land as the Council or County Court shall think meet, towards the defraying of such Just debts, the Educat'n of such child or children, support of the widow, and the better Improving the remainder of the Estate to to their advantage.*

* Supplied by a law passed in the year 1700.—See Bioren's Laws, vol. 1, page 13, Chapters 48 and 46.

The Laws made & past by W^m^ Markham, Esqr. Governour under W^m^ Penn, Esqr., absolute proprietor of the Province of Pennsilvania & the Territories thereunto belonging, by and with the advice & consent of the Council & Representatives of the said Province & Territories in General Assembly met, at Philadelphia, in the sd. Province, the Twentieth & Sixth day of October and the seventh day of November, in the eighth year of the reign of William the third of England, &c., King, Annoq Domi, 1696, under the hand of the said W^m^ Markham aud the seal of the said Province.

THE FRAME OF THE GOVERNMENT

Of the Province of Pennsilvania and the territories thereunto belonging.

Chap. I. Sec. 1. *Whereas*, the late King Charles the Second, in the three and thirtieth year of his reign, By Letters Patent under the Great Seal of England, did (for the considerations therein mentioned,) grant unto William Penn, his heirs and assigns forever, this Colony, or tract of land, thereby erecting the same into a Province Called Pennsilvania, and constituting him the said William Penn, Absolute Proprietary thereof, vesting him, his Deputies and Lieutenants, with divers great powers, preheminencies, Royalties, jurisdictions and authorities, necessary for the well-being and good government of the said Province. Preamble.

And whereas, the late Duke of York and Albany, &c., (for valuable considerations) did grant unto the said William Penn, his heirs and assigns, all that tract of land, which hath been cast or divided into three counties, now called Newcastle, Kent, and Sussex, together with all Royalties, franchises, Duties, Jurisdictions, Liberties, and privileges thereunto belonging; which Last mentioned tract being intended as a beneficial and requestite addition to the Territory of the said Proprietary. Hee the said Proprietary and Governour, at the Request of the freeman of the said three counties by their Deputies in Assembly mett, with the Representatives of the freeman of the said province at Chester (*alias* Upland) on the sixth of the tenth month, 1682, did (with the advice and consent of the members of the said Assembly) Enact, that the said three counties should be annexed to the Province of Pennsilvania, as the proper Territories thereof.

And whereas, king William and the late Queen Mary over England, &c, By their letters patent and commission under the great seal of England dated the Twenty-first day of October in the fourth year of their Reign, having (for the reasons therein mentioned) taken the government of this said province and territories into their hands, Under their Care and protection did think fit to constitute Benjamin Fletcher, Governour of New York to be their Captain General and Governour in Chief over this Province and Country.

And whereas also, the said King and Queen afterwards, by their Letters patent, under the Great Seal of England, dated the Twentieth Day of August, in the sixth year of

their Reign, Have thought fit, upon the humble application of the said William Penn, To Restore him to the administration of the government of the said Province and Territories, And that so much of their said commission, as did constitute the said Benjamin Fletcher their Captain General and Governour in Chief of the said province of Pennsilvania, Country of Newcastle, and the Territories and tracts of land depending thereupon in America, together with all the powers and Authorities thereby granted for the Ruling and governing their said Provinces and Country, should from the publication of the said last recited Letters Patent, Cease, Determine, and become void, and accordingly the same are hereby Declared void Whereupon, the said William Penn did Commissionate his Kinsman William Markham, Governour under him, with Directions to act, according to the known Laws and Usages of this government.

Government, of what to consist.

2. Now for as much as the former frame of government, modelled by act of Settlement and Charter of Liberties, is not deemed in all respects sutably accomodated to our present Circumstances Therefore It is unanimously Desired, that it may be Enacted. *And Be it Enacted by the Governour aforesaid, with the advice and Consent of the Representatives of the freemen of the said Province and Territories in Assembly met, and by the Authority of the same*, that this government shall, from time to time, Consist of the Governour or his Deputy or Deputies, and the freemen of the sd. Province and Territories thereof in form of a Council and Assembly. Which Council and Assembly shall be men of most note for virtue, wisdom & ability; and shall, from and after the tenth Day of the first month next, Consist of two persons out of each of the Counties of this government, to serve as the peoples Representatives in Council, and of four persons out of each of the said Counties to serve as Representatives in Assembly. For the election of which Representatives, It shall & may be lawful to & for all the freemen of this Province & Territories aforesaid to meet together on the tenth day of the first month yearly hereafter in the most Convenient and usual place for the election within the respective Counties, then and there to Choose their sd. representatives as aforesaid, Who shall meet on the tenth Day of the third moneth yearly in the Capital town of the sd. province, unless the Governour and Council shall think fit to appoint another place.

Council and assembly.

Election of representatives.

Meetings.

3. And to the end, It may be known who those that in this Province & territories have right of, or be deemed, freemen

to Choose or to be Chosen to serve in Council and Assembly as aforesaid:

Be it Enacted by the authority aforesaid, That no Inhabitant of this Province or Territories, shall have right of electing, or being elected as aforesaid, Unless they be free Denizens of this government, and are of the age of Twenty one years or upwards, and have fifty acres of land, ten acres whereof being seated and cleared, or be otherwise worth fifty pounds lawful money of this government Clear estate, and have been Resident within this government for the space of two years next before such election. Right to elect and be elected to council and general assembly.

4. *And whereas*, divers persons within this government, Cannot (for Conscience sake) take an oath upon any account whatsoever;

Be it therefore Enacted by the Authority aforesaid, That all any every such person and persons (being at any time hereafter required upon any lawful occasion to give evidence, or take an oath, in any Case whatsoever,) shall (instead of swearing) be permitted to make his or their solemn affirmation, attest or Declar'n, Which shall be adjudged, and is hereby Enacted & Declared to be of the same force and effect, to all Intents and purposes whatsoever, as if they had taken an oath. And in Case any such person or persons shall be Lawfully Convicted of having wilfully & Corruptly affirmed or Declared any matter or thing upon such Solemn affirmation or attest, shall Incur the same penalty and forfeitures as by the Laws & Statutes of England, are provided against persons Convicted of wilful & Corrupt perjury: Affirmations allowed. Punishment for affirming falsely.

And be it further Enacted by the authority aforesaid, That all persons who shall be hereafter, either elected to serve in Council and Assembly, or Comissionated or appointed to be Judges, Justices, Masters of the Rolls, Sheriffs, Coroners, and all other officers of State and trust within This government, who shall Conscientiously scruple to take an oath; But (when Lawfully required) will make and subscribe by the Declaration & profession of their Christian belief, according to the late act of Parliament, made in the first year of King William & the Late Queen Mary, entituled an act for exempting their Majesties Protestant subjects Dissenting from the Church of England, from the penalties of certain Laws, shall be adjudged & are hereby Declared to be qualified to act in their said respective offices & places, and thereupon the several officers therein mentioned, shall instead of oathes, make their Solemn affirmation or declaration in manner and form as is herein after limited and expressed, That is to say: THE FORM OF Judges & Justices attest shall be in these words, viz: All officers making declaration according to certain act of parliament, declared qualified. Form of declaration to be made by judges and justices.

Thou shalt solemnly promise, that as Judge or Justice, according to the Governours Commission to thee Directed, thou shalt do equal right to the poor & rich, to the best of

thy knowledge and power according to Law, & after the usages & Constitu'ns of this government, Thou shalt not be of Counsel of any matter or cause depending before thee, but shalt well & truly do thy office in every respect according to the best of thy understanding.

Form for master of rolls, secretaries, clerks, &c.

The Form of the Attest to be taken by the Masters of the Rolls, Secretaries, Clarks, & such like officers, shall be thus, viz:

Thou shalt well & faithfully execute thy office of &c: According to the best of thy skill and knowledge, taking such fees only as thou ought to receive by the Laws of this government.

Sheriffs and coroners.

The Form of the Sheriff & Coroners attest shall be in these words, viz:

Thou shalt Solemnly promise, that thou wilt well & truly serve the King & Governour in the office of the Sheriff (or coroner) of the County of ——— & preserve the King and Governours Rights, as far forth as thou can or may. Thou shalt truly serve & Return all the writts & precepts to thee Directed, thou shalt take no Bayliff nor Deputy, but such as thou wilt answer for, Thou shalt receive no writts except from such Judges or Justices who by the laws of this government have authority to Issue and Direct writts unto thee, and thou shalt Diligently & truly Do & accomplish all things appertaining to thy office after the best of thy wit and power, both for the King & Governours profit and good of the inhabitants, within the Said Country, taking such fees only as you ought to take by the Laws of this government & not otherwise.

Constables.

The form of a Constables attest, shall be this, viz:

Thou shalt Solemnly promise well & duly, according to the best of thy understanding, to execute the office of a Constable for the town (or county) of P———, for this ensuing year, or until another be attested in thy Room, or thou shalt be legally Discharged thereof—

Grand Inquests.

The Form of the Grand Inquest's Attest Shall be in these words—viz:

Thou shalt Diligently Inquire and true presentment make of all such matters and things, as shall be given thee in Charge, or come to thy knowledge, touching this present service, The Kings Counsel, the fellows & thy own, thou shalt keep secret, & in all things thou shalt present the truth, the whole truth & nothing but the truth to the best of thy knowledge.

This being given to the formen, The rest of the Inquest shall be attested thus (by three at a time,) viz: The same attestation that your foreman hath taken on his part, you you will well & truly keep on your parts.

Traverse juries.

The Form of the Attest to be given to the Traverse Jury, by four at a time, shall be thus, Viz:

You solemnly promise, that you will well and truly try the Issue of Traverse, between the Lord the King and A. B. whom you have in Charge, according to your evidence.

In Civil Causes, thus. Viz,

You Solemnly promise, that you will well try the Issue,

between A. B. plaintif and C. D. Defendant, according to your evidence.

Provided always and it is hereby intended, that no person shall be by this Act excused from Swearing, who by the Acts of Parliament for trade and navigation, are or shall be required to take an oath.

No person required to take an oath, to be excused.

5. And that Elections may not be corruptly managed, on which the good of the government so much Depends; *Be it further Enacted by the Authority aforesaid*, That all Elections of the said Representatives shall be free and Voluntary, And that the elector who shall Receive any reward or gift for giving his vote, shall forfeit his right to elect for that year, And such person or persons as shall give or promise ainy such Reward to be elected, or that shall offer to serve for nothing, or less wages than the Law prescribes shall be thereby Rendered Incapable to serve in Council or Assembly for that year, And the Representatives so chosen either for Council or Assembly shall yield their attendance accordingly, and be the Sole Judges of the Regularity or Irregularity of the elections of their respective members, and if any person or persons, Chosen to Serve in Council or Assembly, shall be wilfully absent from the service hee or they are so chosen to attend, or be Deceased or Rendered Incapable, then and in all such Cases it Shall be lawfull for the Governour within ten Days after knowledge of the same, To Issue forth a writt to the Sheriff of the County, for which the said person or persons were chosen, Immediately to summons the freemen of the same to elect another member, in the room of such Absent, Deceast or Incapable person or persons, And in case any Sheriff Shall misbehave himself in the management of any of the S^{d}, Elections, Hee shall be punished accordingly, at the Discretion of the Governour and Council for the time being.

Elections to be free.

Corruption to disqualify.

Council and assembly the judges of election of members.

Vacancies.

Sheriffs to be punished for misbehavior in elections.

6. *Be It further Enacted by the Authority aforesaid*, that every Member now chosen or hereafter to be chosen by the freemen as aforesaid to Serve in Council, and the Speaker of the Assembly shall be allowed five shillings by the day, during his and their attendance, And every Member of Assembly shall be allowed four shilling by the day, during his attendance on the service of the Assembly, and that every Member of Council and Assembly shall be allowed towards their travelling Charges after the rate of two pence each mile both going to and coming from the place where the Council and Assembly is or Shall be held, all which sums

Compensation of members of council and assembly.

shall be paid yearly, out of the County Levies, by the County receivers respectively.

Governor or deputy to preside in council.

And Be It further Enacted by the Authority aforesaid, That the Governour or his Deputy shall always preside in the Council, and that hee shall at no time perform any public act of state whatsoever, that shall or may Relate unto the Justice, treasury or trade of the Province and territories, but by and with the advice and Consent of the Council thereof, or Major part of them that shall be present.

Not to perform public acts, except by consent of council.

Sheriffs and clerks to give security.

8. *And Be It further Enacted by the Authority aforesaid*, That all the Sheriff's and Clarks of the respective Counties of the said Province and Territories, who are or shall be Commissionated, shall give good and Sufficient Security to the Governour, for Answering the King and his people, In matters relating to the said offices respectively.

Quorum of council.

And Be It further Enactad by the Authority aforesaid, that the Council in all cases and matters of moment as about erecting Courts of Justice, sitting in Judgment upon persons Impeached, and upon bills and other matters, that may be from time to time presented by the assembly, not Less than two thirds shall make a Quorum, and that the Consent and approbation of the majority of that Quorum, shall be had in all such cases and matters of moment, And that in Cases of Lesser moment not less than one third of the whole shall make a Quorum, the majority of which shall and may always Determine in all such matters of Lesser moment, as are not above specified and in case the Governour's power shall hereafter happen to be in the Council, a President shall then be Chosen out of themselves, by two thirds or the Major part of them, which President shall therein preside. *Be It further Enacted by the Authority aforesaid*, That the Governour and Council, shall take care that all Laws, Statutes, and Ordinances which at any time be made, within the sd. Province and Territories, be Duly and Diligently excuted. *Then Be It further Enacted by the Authority aforesaid*, That the Governour and Council, shall at all times have the care of the Peace of this Province and Territories thereof, and that nothing be by any person attempted to the subversion, of this frame of Government.

When council to choose a president.

Governor and council to see that laws are executed.

To have care of peace of province.

To order situation of cities, and market towns.

And Be It further Enacted by the Authority aforesaid, That the Governour and Council for the time being, shall at all times settle and order the scituation of all Cities and Market Towns, modelling therein all public buildings, Streets and Market places, And shall appoint all publick landing places of the Towns of this Province and Territories, and if any mans' property shall be judged by the Governour and Council comodious for such Landing place in the said Towns, and that the same be by them appointed such, that the Owner shall have such reasonable satisfaction given him for the same

Appoint public landing places.

Owners of property taken for landings, to receive satisfaction.

as the Governour and Council shall see meet, to be paid by the said respective towns.

Be It further Enacted by the Authority aforesaid, That the Governour and Council shall at all times Have power to Inspect the management of the public Treasury, and punish those who shall Convert any part thereof to any other use than what hath been agreed upon by the Governour Council and Assembly. Governor and council empowered to inspect the treasury.

Be It further Enacted by the Authority aforesaid, That the Governour and Council shall erect and order all publick schools and encourage and Reward the Authors of useful Sciences and Laudable inventions in the said Province and territories thereof. To erect public houses, and encourage inventions.

And Be It further Enacted by the Authorites aforesaid, That the Governour and Council shall from time to time have the care of the management of all publick affairs, relating to the Peace Safty, Justice, Treasury, trade and Improvment of the Province and Territories, and to the good education of youth and Sobriety of the manners of the Inhabitants therein as aforesaid. To have the care of public affairs.

9. *And Be It further Enacted by the Authority aforesaid*, That the Representatives of the freemen when met in Assembly shall have power to prepare and propose to the Governour and Council all such Bills as they or the Major part of them, shall at any time see needfull to be past into Laws, within the said Province and Territories. Power to prepare and propose bills.

10. *Provided always*, that nothing therein Contained shall debar the Governour and Council from Recommending to the Assembly all such bills as they shall think fit to be past into laws, and that the Council and Assembly may upon Occasion confer together in Committies when desired all which said proposed and prepared Bills or such of them as the Governour with the advice of the Council, shall in Open Assembly declare his assent unto, shall be the Laws of this Province and Territories thereof publisht accordingly with this stile: *By the Governour with the assent and approbation of the freemen in General Assembly met*, A true Transcript or Duplicate whereof shall be transmitted to the King's Privy Counsel for the time being, according to the said Late King's Letters Patent. Council and assembly may confer together.

What bills to be laws.

Style in which to be published.

Duplicates to be transmitted to privy council.

Continuance of assembly.

11. *And Be It further Enacted by the Authority aforesaid*, That the Assembly shall sit upon their own Adjourments and Committies and continue, in order to prepare and propose bills, Redress grievances and Impeach Criminalls, or such persons as they shall think fit to be there Impeached, untill the Governour and Council for the time being shall Dismiss them, Which Assembly shall, notwithstanding such Dismiss, be capable of assembling together, upon summons of the Governour and Council, at any time During that year, Two thirds of which Assembly in all cases shall make a Quorum.

Re-convening of same, after dismissal.

Quorum.

Elections, &c., to be determined by majority vote.

12. *And Be It further Enacted by the Authority aforesaid*, That all elections of Representatives fore Council and Assembly, and all questions to be determined by them shall be by the major parts of votes;

No business to be transacted on Sunday.

Be It further Enacted by the Authority aforesaid, That as oft as any Days of the month mentioned in any article of this act shall come upon the first of the week commonly called The Lords Day, The business appointed for that day, shall be deferred till the next day unless in Cases of emergency.

How estates of aliens to descend.

13. *Be It further Enacted by the Authority aforesaid*, That if any Alien, who is or shall be a purchaser of Lands, or who doth or shall Inhabit in this Province or Territories thereof, shall decease at any time, before hee can well be denizised, His right and interest therein shall notwithstanding Descend to his wife and children, or other his relations, be hee testate or Intestate, according to the Laws of this Province & territories thereof in such Cases provided, In as free & ample manner to all Intents & purposes, as if he ye said alien had been denizised.

And that the people may be accomodated with such, food & Sustenance as God in his Providence hath freely afforded.

License to hunt and fish.

Be It further Enacted by the Authority aforesaid, that the Inhabitants of this Province & territories thereof, shall have Liberty to fowl & Hunt upon the Lands they hold, or all other Lands therein, not inclosed, And to fish in all waters in the said Lands & in all Rivers & Rivulets in and belonging to this Province and Territories thereof, With Liberty to draw his or their fish to shoar upon any mans Lands, so as it be not to the Detriment or annoyance of the owner thereof, except such Lands as do ly upon Inland Rivulets, that are not boatable, or which thereafter may be erected Into Manors.

Inhabitants to have full enjoyment of their lands.

Be It further Enacted by the Authority aforesaid, That all Inhabitants of this Province & Territories, whether pur-

chasers or others, and every one of them, shall have full and quiet enjoyment of their respective Lands and Tenements, To which they have any Lawful or Equitable claim, Saving only such Rents and Services for the same, as are or Customarily ought to be reserved to the Lord or Lady of the fee thereof respectively.

Be It further Enacted by the Authority aforesaid, That no act, Law or Ordinance whatsoever shall at any time hereafter be made or done by the Governour of this Province & Territories thereunto belonging, or by the freemen in Council or Assembly, to alter, change or diminish the form and effect of this act or any part thereof; without the consent of the Governour for the time being, and six parts of Seven of the sd. freemen in Council & Assembly met. This act to Continue and be in force, Untill ye said Proprietor shall signify his pleasure to the Contrary, by some Instrument under his Hand and Seal in that behalfe. *Provided always*, And It is hereby Enacted that neither this act, nor any other act or acts whatsoever shall preclude or Debar the Inhabitants of this Province & territories from Claiming having and enjoying any of the Rights, Priviledges & Immunities which the said Proprietary for himself his heirs & assigns Did formerly grant or which of right belong unto them the said Inhabitants, by virtue of any Law, Charter or Grants whatsoever, anything herein Contained to the Contrary notwithstanding.*

Alteration of frame.

Continuance of same.

Not to debar inhabitants from claiming their rights.

II. An act for Raising the Rate of one penny per pound & six Shillings per head, upon such as are not otherwise rated thereby, To be Imployed by the government for the time being as is herein after limited and appointed.

Since it hath pleased the King & Queen to restore the Proprietory To the Government of this Province & Territories. Wee the Representatives of the freemen thereof in General Assembly met with dutyful acknowledgments of their justice and favour in that behalf, & to manifest our affections to the King as well as our readiness to answer his Expectations in supporting the said government so far as in conscience wee can, according to our abilities and present circumstances of affairs, do humbly desire that it may be enacted *And be it therefore Enacted by the Governour, Concil & Representatives Convened in General Assembly, & by the Authority of the same*, That all and every person and persons within this Government, having any personal Estates, either in their possession or in the possession of others in trust for them, over and beside the household goods and Implements they use & such sums of money as they really owe or ought to pay, Shall yield & pay to the use aforesaid after the rate of one penny per pound. And to the end that

Preamble.

Tax upon personal estate.

* Supplied by Charter or Frame of 1701.

this Tax may be laid with as much Equality & Indifferency as may be upon all Land within this government. *Be It Enacted by the Authority aforesaid*, that all Lands & other Real as also the personal estates, shall be and are hereby charged for one year only & no longer, with one penny for every pound clear value.

Tax rate to continue for one year only.

Tax upon housekeepers.

And be it further Enacted by the Authority aforesaid, that all Housekeepers within this province and Territories shall be assessed and pay after the rate of one penny per pound for their clear estate (excepting as is before excepted) and

Upon male inhabitants.

that all males within this Province & Territories who at the making of this act, have been of their servitude by the space of six months and shall be above the age of Twenty one years, being worth seventy two pounds or upward, shall be assest & pay after the Rate of one penny per pound clear estate as aforesaid, and that such of the said males only as be not worth seventy-two pounds Shall pay six shillings per head—*Provided always*, that our Chief Proprietary & his

Proprietary and deputy exempt.

Deputy in government shall not be assessed by virtue of this act.

Assessment and collection of tax.

And be It further Enacted by the Authority aforesaid, that for the effectual putting of this act in execution It shall & may be lawfull for all or any of the members of Assembly within each County, for which they serve, to call to their assistance four or more of the most substantial freeholders, as justices of the peace or others, as the said members of Assembly Shall see meet, and that they or the Major part of them, shall within one moneth next after the publication thereof meet together, at such place or places within every County as they shall respectively agree upon, in order to assess the rates mentioned in this act, And after such meeting had The said assessors shall by warrant from some justice of the peace of the proper County, cause the Constables within the said County to bring in Certificates in writing of the names of every person residing within the limits of the sd. places with which they shall be charged & of the substances of every of them who are to be Rated by this act, Which said Constables shall be paid or allowed by the Collectors three pence per pound for their trouble therein—And the said Assessors are hereby enjoyned to ascertain and Inform themselves by all lawful means they can of the true valuation of the clear Estates both Real & personal within the said counties and limitts with which they shall be charged respectively, and being thereof ascertained they are to assess themselves & others for or in respect of the said estates, according to the rates aforementioned. And thereupon the said assessors shall cause the respective clarks of the Counties to draw out list and fair duplicates of the said assessments to be Signed by the said assessors, for which the sd. Clark shall be allowed Twenty shillings respectively out of the said assessment, And the said assessors Shall appoint the Sheriff or such other person or persons of each County as they shall appoint to be collectors of the said rates, for which service the said assessors shall be paid & allowed by the Collectors Six pence per pound out of the said assessment.

And be it further enacted by the authority aforesaid, that the sd. money so as aforesaid to be levyed shall be paid at Philadelphia by the respective collectors on or before the Twenty fifth day of the second month 1697 (danger and casualties excepted) unto James Fox of Philadelphia, merchant. But in case of mortality, It shall be lawfull for the Governour & Council to appoint some other person to be the Receiver, whose Receits shall be a sufficient Discharge to such Collectors, which said Collectors for gathering the sd. sums shall Retain in their Hands respectively for every twenty shillings by them paid in as aforesaid the sum of one shilling, with such reasonable charge as shall appear to be due for portage of money or other pay by them Collected By virtue of this act, as a Reward for their pains.

Payment of taxes to receiver.

Compensation of collectors.

And Be It further Enacted by the Authority aforesaid, That the said Receiver shall pay & dispose of the said money in manner following, That is to say, the sum of three hundred pounds to be paid by the sd. Receiver to the Governour for the time being towards the Relief of the distressed Indians inhabiting above Albany, late sufferers by the French, who are in alliance with the Crown of England, And the sum of three hundred pounds to be by him the sd. Receiver paid to our present Governour William Markham towards his services, and the surplusage or Remaining part of the said money So to be Leveyed and paid in as aforesaid, Shall be disposed of by the sd. Receiver, as the Governour & Council for the time being shall order and appoint, towards the defraying of the debts and necessary charges of this government from time to time; A fair and true account whereof Shall be Rendered by the said Receiver to the Governour and Council, and by the Council to the Assembly to be held next after the Said Rate is raised, for all such sums of money as shall be by him received paid or disposed of as aforesaid. And that the said Collectors Shall Return and fairly present to the Said General Assembly the Said Assessments, which with the names and several values of the respective Estates, with the real sums levyed by this act; and also that the Sd. Receivers Accompts of all the money and goods by him received and disbursed by virtue of this act, shall be by him certified to the Said Assembly. Which said Receivers for their care and trouble therein shall Retain in their hands for every twenty Shillings by them received & paid as aforesaid, the sum of Six pence.

How moneys to be disposed of.

Accounts to be rendered.

And return made to general assembly.

Compensation of receiver.

And be it further Enacted by the Authority aforesaid, That if any of the said Assessors, Collectors, Clerks, Constables or Receivers shall Refuse or neglect their respective duties in the premises, & be duly convicted thereof, shall be fined by the Justices of the respective County Courts in any sum not exceeding five pounds for such use or uses as the County Court Shall Direct.

Punishment for neglect of duties.

And be it further Enacted by the Authority aforesaid, That if any person or persons whatsoever within this government who shall be assessed or Rated any Sum or Sums of money by virtue of this act to be Leveyed, Shall deny, refuse or Delay to pay the same, That then it shall & may

Goods to be distrained for taxes.

be Lawfull for any such Collector, by virtue of a warrant under the hand and seal of any one Justice of the peace for the County where such offender shall reside, who by virtue of this act are required to grant such warrants, to levy the same by distress and sale of such person or persons' goods & chattels—Returning the overplus (if any be) to the owner, after the sum assessed and Distrained for, with all charges are Deducted. *Provided always*, That if any person or persons certified assessed and Rated for or in respect of any Estate for which by this act hee or they, is or may be Rated, do find him or themselves agrieved with such Rateing, & Shall within a reasonable time before the same Rate becomes payable Complain to the Assessors who signed and allowed his, her or their rates, which Said Assessors shall appoint a convenient time after such Complaint made and then particularly hear and examine the person or persons Complaining, or any other touching the value of the Complainants Real and personal estate, and thereupon the Said Assessors shall abate, defaulk or Confirm the Said Assessment, according as the Complainants shall appear to be worth, either by the parties own attest or proof of others.

Decrease, &c., of assessments, on complaint made.

Provided also that the several Collectors Shall gather & receive the respective sums assessed as aforesaid In Current money of this province, or for want thereof in good merchantable Country produce at the Current market price, according to the Law of this Government, at such Convenient Landing places in every County, as the said Assessors shall appoint.

How taxes to be received.

And be It further Enacted by the Authority aforesaid, That if any person be sued for any thing done in pursuance of this act such persons so sued may plead the General Issue and give this act and special matter in evidence, and if the plaintiff or prosecutor Shall becast, the Defendant Shall Recover Treble Damages.

Suits under act.

Provided always, That none shall be punished by virtue of this act for any neglect or miscarriage in the Execu'n. thereof, but within one year after such offence.*

Limitation of prosecutions.

3. THE LAW FOR RAISING COUNTY LEVIES.

Whereas, there is a continual occasion for a Publick stock to Defray the necessary charge in each County, for the support of the poor, buiiding or repairing of prisons, paying for salaries belonging to the Council & Assembly, paying for wolfs heads, The Judges expenses, & all just Debts, with many other necessary charges. *Be It therefore Enacted by the Governour, Council & Representatives in General Assembly met*, that from & after the first day of the first moneth next, The Justices of every County within this province and Territories at their respective Quarter Sessions to be held in

Preamble.

Estimate of public charges, to be made.

* Expired by limitation.

the seventh month yearly, or oftener if occasion be, shall with the Assistance of the respective Grand Juries and any three of the assessors hereafter mentioned, calculate the public charge of the County, and shall allow all just debts dues & accounts.

And be it further Enacted by the authority aforesaid, that in every respective County within this Province & Territories, at the usual time and place appointed by Law for the freemens electing their representatives to serve in Council & Assembly, It shall & may be lawfull then and there for the sd. freemen to nominate & appoint six assessors of the substantial freeholders in each respective County, of which the Sheriff in each County after the said elections of Representatives is made & done, shall put the said freemen in mind of their duty in this respect, and when the sd. assessors are nominated as aforesaid, the said respective sheriffs shall take their names & make a fair Return under his hand to the Clark of the County within ten days after the said election is made, which hee shall keep on the file, & also Communicate the same to the next County Court, which said assessors or any four of them, on or before the Twenty fourth day of the eighth month next after the Calcula'n of the aforesaid publick County charge, shall, make or lay & Rate or assessment in manner following viz: The Rate of one penny per pound, and so proportionably for a greater or lesser sum for every pound clear value of real and personal estates, except Household goods & Implements which they use, & such sums of money & debts as they really owe, and having & Due Regard to such who have a great charge of children, whose clear value both of Real & personal estate, Doth not amount to thirty pounds, and after the Rate of six shillings per head and so proportionably for a greater or lesser sum, of all freemen who have been out of their servitude for the space of six months, and all such who Come free into this government & have been therein resident for the space of fourty days, and are above the age of sixteen years, and have not families or charge to maintain, and are not under their parents tuition, and assisting to them on their plantations or trades, or are not otherwise Rated by this act. And the Justices of the respective Counties or some of them shall by warrant cause the Constables to bring in Certificates, in writting of the names of every person in their respective Limitts, with which they shall be charged & of the substance and value of every one of them who are to be rated by this act, which Said substances and values shall again be liable to the valuation of the assessors aforesaid, who are by all Lawfull means then can To Inform themselves of the true valuation of the clear estate both Real & personal within their respective Counties, and shall assess themselves and others, for & in respect of the said estates as aforesaid, and the assessors shall appoint so many Collectors as they shall think to Collect & gather the same, who shall save for his pains allowed by the Treasurer, one shilling per pound or so much as the Assessors can agree for.

Appointment of assessors, authorized.

Names to be returned to county clerk.

And communicated to county court.

Levy and collection of rates.

And be it Enacted, that the said assessors shall appoint a

Treasurer, appointment and duties of.

Treasurer in their respective Counties, who shall keep a distinct book, Containing a peculiar accompt of all the rates & assessments made as aforesaid, as also of all disbursements and payments hee hath made by order from the Justices & assessors, which said Treasurer shall in the Seventh month yearly, bring in his accompts & make them up in open Court before the Justices of the said Courts and assessors, and all other that are willing to be present at the Auditing thereof, except in case of Death, or other Extraordinary occasions that shall be allowed by the Court, and for his service hee shall have so much as the assessor can agree with him for.

Compensation.

Moneys for support of poor, to be first paid.

And be it further Enacted, for the further encouragement of the Justices & overseers of the poor to dispose of money on a sudden or emergent occasion for relief of the poor, out of the first money that shall be raised to pay the County charges the moneys Laid out for the poor (before any other disbursements or payments be made) shall be first satisfied & fully paid. *Provided always* that the debts formerly due from the County may be in like manner paid, as those which shall be hereafter due.

Penalty for neglect of duties by collectors.

And be it further Enacted by the Authority aforesaid, that if the Collectors so as aforesaid chosen, shall Deny, neglect or refuse to collect any sum or sums of money in form aforementioned, assessed, and be Convicted thereof, shall be fined by the Justices of the respective County Courts in any sum not exceeding five pounds, to the use of the poor of that County.

Goods to be distrained for non-payment of rates.

And Be It further Enacted by the Authority aforesaid, that if any person or persons whatsoever, within this government, who shall be assessed or Rated any sum or sums of money by virtue of this act to be Levyed, shall Deny, refuse or delay to pay the same, that then it shall & may be Lawfull for any Collector, by virtue of a warrant under the Hand & Seal of any justice of the peace of the County where such offender shall Reside, who by virtue of this act are Required and authorized to grant such warrants, to Levy the same, by Distress & Sale of such person or persons goods & chattells, Returning the overplus, if aught, to the owners after the sum assessed and Distrained for, with all the reasonable Charges are deducted. *And Be It further Enacted by the Authority aforesaid*, that the money or effects gathered and received by these Collectors within their respective Limitts, by virtue of this act, shall from time to time be Duly paid to such Receiver or Receivers as shall be appointed to Receive the same whose receits shall be sufficient Discharges to such Collectors. *Provided always*, that if any person or persons Certified, assessed, or Rated for or in respect of any estate for which by this act he or they is or may be rated, do find him or themselves agrieved with such rateing, and do at any time before the same Rate becomes payable, complain to the assessors that signed or allowed his or their Rates, who shall within ten Days after such Complaints, particularly examine the person Complaining or any other person, touching the value of the Complainants real and personal estate, and thereupon the sd. assessors shall abate, De-

Payment of rates.

Decrease or increase of assessments, on complaint made.

faulk or Increase the said Assessments as the Complainants shall appear to be worth, either by the parties own attest or proof of others. *And Be It Enacted by the Authority aforesaid*, that the said Collectors shall gather & Receive the respective sums assessed as aforesaid in Current money of this Province, or for want thereof in good merchantable Country produck, at the Current market price according to Law, at such convenient place or places as the assessors shall appoint, any Law, usage, or custum, for the assessing & raising of County Levies & charges this Government to the Contrary thereof in any wise not withstanding.

How rates to be received.

4. The Law for preventing of Hogs &c Running att Large in the Town of Chester.

Whereas, Complaint has been made, That Hogs & other swine Running at Large in the town of Chester (*alias* Up land) in this Province are very Injurious to the Inhabitants, more especially to those who are Improving their Marshes with Ditching & Draining. Therefore *be it Enacted by the Authority aforesaid*, that all & every such person or persons residing within the bounds herein mentioned, as shall after one month Suffer any of their Hogs, sows, shots, piggs or goats to go at Large in the streets or other Lands & Lotts, belonging to the Sd. town, or in the meadows & marshes which are adjacent thereunto within the bounds hereinafter Limited, shall forfeit and Loose such Hogs, sows, Shoots, piggs & goats, to the use of the County of Chester. And if any Hogs, Shoats, piggs, or goats belonging to any Inhabitant Living out of the Sd. town bounds, Shall be found at Large within the sd. town or marshes aforesaid, The owner or owners thereof Shall pay the officer ten pence per head for taking them up. And that the Justices of the Said County Court shall appoint the sd. officer from time to time (as occasion be) to put this act in Execution. And that the bounds aforesaid are hereby intended to be, Southward on Delaware River, To the Westward on Chester Creek, To the Northward on the Kings road, and to the Eastward on Ridley Creek.*

Preamble.

Forfeiture of swine and goats found running at large.

Owners residing without town bounds, to pay charges for taking up animals.

Court to appoint officers to execute law.

Town bounds, defined.

5. The Law for preventing of accidents that may happen by fire in the towns of Philadelphia & New Castle.

Be It Enacted by the Authority aforesaid, That if within

*A general law to the same effect passed in the year 1700—See Bioren's Laws, vol. 1, page 25, Chapter 77.

Punishment for setting fire to chimneys.

ten days after the publica'n hereof, any person or persons within these towns set or fire their chimneys to cleanse them, or shall suffer them to be so foul that they shall take fire, so as to flame out at the top, & be duly convicted thereof by two Credible persons of the neighborhood, before some one Justice of the peace, shall forfeit for every such offence, the sum of fourty shillings.

Owners of dwellings. to provide themselves with swabs and buckets.

And for the further securing of Houses and preventing of fire from destroying them in the towns aforesaid. *Be it Enacted by the Authority aforesaid*, That every owner of every dwelling house within the towns aforesaid, within twenty Days after the publication hereof shall provide and keep, in or by his or her house a swab twelve or fourteen foot long and a Bucket or pail to be always ready agt. such accidents of fire, under the penalty of ten Shillings for every neglect thereof, and to be convicted as aforesaid.

Punishment for smoking in streets.

And for the further prevention of fire in the sd. towns, *Be It further Enacted by the Authority aforesaid*, that no person shall presume to Smoak tobacco in the Streets, either by day or night and every person offending herein, shall forfeit for every such offence twelve pence, all which fines shall be paid to the respective Justices of each town, for the use

Appropriation of penalties.

of each town, and one to be employed for buying and providing Leather Buckets & other Instruments or Engines agt. fires, for the public use of each town respectively.*

The above Containes in 74 pages are a true Transcript or Duplicate of the original Laws of this Province of Pennsylvania & Territories thereunto belonging, Now in force untill his Majestics pleasure shall be further known, as they remain on the files in the Secrie's offlce of the sd. Province, Examined & Compared therewith & found to agree with the same the 13th day of February Annoq Domi 169⅞ By mee

PAT. ROBINSON *Secr'y.*

* A law to the same effect passed in the year 1700—See Bioren's Laws, vol. 1, page 17, Chapter 54.

THE LAWS MADE AND PAST

By William Markham Esqr., Govern' under William Penn Esqr, Absolute proprietor of the Province of Pennsilvania & the Territories thereunto belonging, By and with the advice and consent of the Council & Representatives of the said Province & Territories, in General Assemblie met at Philadelphia the tenth & 24th days of May in the ninth year of the reign of our Soveraign Lord William the third by the grace of God, of England, Scotland, France & Ireland, King &c Defender of the faith Annoq Domi. 1697.

1. The Law for Ratifying and Confirming the Acts and proceedings of the Assemblie in 1696.

Preamble.

Whereas, Divers persons within this government have expressed their Dissatisfaction both with the proceedings and Dissolution of the Council & Assembly in October 1696, insisting that their Chartered rights were given away thereby, & that all the Laws past the Last Assemblie are void & of no force, with Such Like objections that are made use of to obstruct the proceedings of this Assemblie, As also to amuse the people & bring the government into Confusion. Now forasmuch as it is sufficientlie apparent, that by the act past at the sd. Last Assemblie intituled, The Frame of the government of the Province of Pennsilvania & the Territories thereunto belonging, provision is made agt. such dissolution of Council & Assembly, as is Complained of & that our Charteral rights are so far from being taken away or given away, that they are effectuallie asserted with sufficient Salvo's to preserve the peoples Just rights & claims to all & everie the priviledges & Imunities granted them by any charter or other grant from the Proprietarie, in case hee should Disapprove of the said frame of government.

Therefor for Removing & preventing all farther Doubts, Scruples & Disentes concerning the meeting, sitting & proceedings of this present general Assemblie.

Governor and freemen now sitting in assembly, declared the council and assembly of province.

Be It Enacted and declared, and it is declared & enacted by the Governour & Representatives of the freemen of the said Province & Territories in Council & Assembly met, and by the Authority of the same, That the Governour & freemen of the said Province & Territories met at Philadelphia on the tenth day of the third month 1697 and now sitting in General Assemblie, are the Council & Assemblie of the sd Province of Pennsylvania & Territories thereunto belonging, and shall be and are hereby Declared, Enacted and Adjudged so to be to all intents, Constructions and purposes, whatsoever, as if this General Assemblie had been elected according to the Rotation of the Charter of Liberties, before Col. Fletcher came to the administracon of this government, and as if this present Council & Assemblie had consisted of the members and had met on the days that the said Charter and former act of settlement Limited and appointed.

And be it further Enacted by the Authoritie aforesaid,

Former laws, ratified and confirmed.

That the said frame of government and all other the acts and Laws made & past at the said Last Assemblie held here in October & November 1696, as also all other Laws formerlie Enacted & now in force and not by this General Assemblie altered or repealed, are hereby Declared and enacted to stand & remain in full force, and be Reputed, Observed, Adjudged & taken as the Laws of this government, anie Law, charter or usage to the Contrarie in anie wise not withstanding.

2. THE LAW FOR THE ENCOURAGEMENT AND SUPPORT OF THE POST OFFICE.

Preamble.

Whereas, in the year 1693, a General Post office was by law erected at the request of Andrew Hamilton at Philadelphia, By which Law a Rate was put upon all Letters.

And whereas, the charge of the said office hath much exceeded the Postage, and being sensible of the benefit of the said office to trade & Comerce & to the Province & Territories in General, if it be Continued, And of the great Loss that will happen to both if it should happen to fall for want of encouragement.

Rates of postage fixed.

Be It therefore Enacted by the Authoritie aforesaid, That it shall & may be lawfull for the sd. Andrew Hamilton or some other that shall be appointed by the King to be Post M[r] General in these parts, and his and their Deputies in that office to Demand, receive & take for the postage of all Letters so conveyed or sent post as aforesaid, according to, and not exceeding the rates following, viz: for all forreign Letters from Europe, the West Indies, or any part beyond the seas, whether single letters or packetts, four pence.

And for all forreign Letters outward bound that shall be Delivered into the office, two pence each letter or packett.

And for all Inland Letters to or from New York to Philadelphia, eight pence.

To or from Philadelphia to Connecticut, one shilling

To or from Philadelphia to Rhode Island or Boston, eighteen pence

To or from Philadelphia to the eastward parts of New England, beyond Boston two shillings.

To or from anie place within eightie miles of Philadelphia, six pence

Public letters to go free.

All letters belonging to the publick to be dispatched & delivred free of all charge.

Post to pass ferriage free.

And that the post pass ferriage free at all ferries within the sd. Provinces & Territories.

Compensation of postmaster.

And be it further enacted by the Authority aforesaid, that the sum of Twentie pounds Silver money of this Province shall be yearlie and each year during the term of three years, paid out of the publick treasurie of the said Province & Territories to the said Andrew Hamilton & his above within,

anie Law, Custome or usage to the Contrarie in anie wise not withstanding. And that this Law shall be and Continue in force for three years next after the rising of this general assemblie.* Limitation of act.

3. The Law for the speedie Collecting the Arrears of the Assessment Laid in 1696.

Whereas, there was an Act made at a General Assemblie held at Philadelphia the 26th of the eight month 1696 for raising the Rate of one penny per pound, and six shillings per Head upon such as wer not otherwise Rated thereby, to be Imployed by the Governour for the time being, as is therein appointed, which said act expresslie Requiring the Collectors of the said tax to pay in the respective rates Comitted to their Collection, to James Fox of Philadelphia merc't., on or before the 25th day of the second month Last past, Dangers & Casualties excepted, a fair and true accompt thereof being by the said Receiver to be Rendered to the Governor and Council, and by the Council to this Assemblie. And the said Collectors being thereby required to Return and fairlie present to this General Assembly the said assessment, with the names & values of the respective estates, with the Real sums Levied by the sd. act, And also that the sd. Receivers accompts of all the money by them received & Disbursed by virtue of the said act, was by him or them to be certified to this present Assembly. In pursuance whereof this present Assemblie, Having called before them the aforesaid Receiver James Fox In order to inspect into and adjust the accompts & several Rates aforesaid by him to be Received as Receiver General for this Province & Territories, and upon the view of the said Receivers accompts, finding that manie of the Collectors concerned & appointed by the Assessors in several Counties in this Government have failed in their Duty in paying, and Returning their Duplicates as in the said Law they are enjoyned and required. Preamble.

For the speedie & more effectual prosecution whereof, wee Humbly Desire that it may be Enacted, *And be It Enacted by the Governour with the Consent of the freemen in General Assemblie met*, That the Justices of each respective Countie within this Government, shall within Twenty Days after the Rising of this present Assemblie Cause the respective Collectors of each Countie within this Government, to appear before them or a Quorum of them to show cause why they have failed in the performance of their respective trust and Duty; upon the hearing thereof, The said justices shall and are Hereby required to pass the judgment agt. everie Collector Collectors according to the nature and merit of his Justices to summon delinquent collectors before them. To pass judgment and impose fines.

* A similar law passed in the year 1700, which was supplied, before the revolution, by a British statute—See Bioren's Laws, vol. 1, page 17, Chapter 50, and note.

or their offence, and fine such offender or offenders in a greater or Lesser sum according to their Discretion within the Limits of the aforesaid act.

Appoint collectors of unpaid rates.

And for the more speedie and effectual prosecution of the said act. *Be It Enacted by the Authoritie aforesaid*, that the said Justices of each Countie, or anie three of them, shall at their Discretion, order nominate and appoint either the aforesaid Collectors or so manie of them as they shall see meet to collect the residue & Remaining part of such Rates or assessments in each their respective County as are not alreadie Collected and receited, or otherwise to Committ the said Rates & arrearages not already Collected, to the care & Collecting of the Sheriff of each respective Countie, or anie other person as they shall see meet or Convenient.

Or give same to sheriff to collect.

Payment of moneys to receiver.

And Be It Enacted by the Authoritie aforesaid, that the sd. money so as aforesaid to be Collected shall be paid att Philadelphia the tenth day of the fifth month 1697, danger & casualties excepted to James Fox; or in case of mortalitie to such other Receiver or Receivers as shall be by law in that Case appointed, whose Receit shall be a sufficient Discharge to be Disposed of as the aforesaid act of Assemblie directs for such Collectors.

Charges of collector for distraining.

And be it Enacted by the Authoritie aforesaid, that if anie person Rated by the said Law shall Refuse and delay to pay his just proportion untill the Collector shall be necessitated to make Distress, The same Collector shall & may take for his so distraining as the Laws allow the Sheriffs in Cases of Execution with other Reasonable charges.

Punishments for neglect of duties.

And be it further Enacted by the Authoritie aforesaid, that if anie of the Justices of the peace of this government shall Refuse or neglect their respective Duties in the premises & be Duly Convicted thereof, shall be fined by the Governor & Provincial Council in anie sum not exceeding ten pounds to the use of the Governor. And if anie of the sd. Collectors Sheriffs, Clarks, Constables, or other officers, do refuse or neglect their duties therein, being Convicted thereof shall be fined by the Justices of the respective Countie Courts in anie sum not Exceeding five pounds for such use or uses as the Countie Court shall Direct; Any Law or usage within this government to the Contrarie notwithstanding. This act to be in force until the Rysing of the next General Assembly and Twentie days after.

Limitation of act.

4. THE LAW ABOUT TESTATES AND INTESTATES ESTATES.

Estates of decedents, liable for payment of their debt

And be it further enacted by the Authoritie aforesaid, that all real estates and Lands, tenements and Hereditaments and all personal Estates, which any person hath in this Province and Territories, at the time of his Decease, shall be Liable either by Conveyance or bill of sale dulie executed by the

Lawful executor or administrator of such Deceased and approved and acknowledged in Open Court according to Law, or by Judgment and order of the respective Courts of Record, upon due proceedure therein had, to be seized and sold for payment of the Decedents just Debts, so far as the same estate shall extend in due order of Law. That is to say; First funeral expenses, Then debts and Duties due to the Governour, Then Judgments, Then debts due by Recognizance, Then debts due by obligation, Then Bills, Then Rents, Then Servants and workmens' wages, Then merchant's books, latelie Contracted, and promises by word, arrears of accompts and such like; Which said sales and seizures are hereby Declared to be binding and Conclusive against such Deceased, and their Heirs and all Claiming under them. And after all Debts are paid as aforesaid then the surplusage or Residue, if any be, of all the Testator's said personal Estate shall be by the executors divided and proportionallie Distributed according to their last wills. *Always provided* that his widow have not Less than one third part of the said personal estate, except where due and equivalent provision hath been made before by the testator. And that the surplusage or Residue of an Intestate's personal estate, all debts being paid as aforesaid, shall be thus Disposed of and Distfibuted, To wit: One-third part thereof to the wife of the Intestate, The residue among his children, and such as Legally represent them, if anie of them be dead the eldest son having a Double part or Share, And if their be no children, nor Legal Representatives of them, one moiety shall be allotted to the wife, the residue equallie to the next of kindred to the intestate, in equal Degree and those who represent them. And if the Intestate leaveth no wife child nor children, It shall go to his brothers and sisters, if anie be, or to the children of such brothers and sisters; And in Case no such be it shall go to the parents; And for want of kindred, the one-half to the governor for the time being, and the other Half to the public stock of the countie where such estate lyeth. And the personal estate of an Intestate widow shall go to her child or children, the same to be disposed of, as aforesaid: And the personal estate of a Single man or woman, Dying intestate, shall go to his and their brothers and sisters, if anie be, and for want of such, then as before Limited. *Provided always*, that where such testators or Intestator's said personal estates are sufficient to pay all Debts and Damages, owing by them at the time of their Decease, with all charges incident thereunto, that then their respective real estates aforesaid, shall be disposed of, and Distributed in manner following: That is to say, All testator's real estates, to be invested and remain as their Last wills and testaments Devise the same, *Provided alwuys*, that no Less than one-third part of the said real estate be allowed and Invested in the widow, During her Natural Life, except where Due and equivalent provision hath been made before by the testator. And one-third part of all intestates' Lands and tenements to the wife for her Life, the residue and remainder thereof, to be allotted and Distributed in the same manner as the surplusage of the in-

Order of payment.

How personalty to be disposed of, after debts paid.

Distribution of real estate where personalty sufficient to pay debts.

By whom and when distributions to be made.

testate's personal estate as above Limited and Directed. All which Distributions of the Remainders and Surplusages, as well of the testates as Intestates estates, are to be made by the Register-General for the time being, within twelve months after the Decedent's Death; And every one to whom anie shares shall be allotted shall give bond, with Sureties, to the said Register-General, that if Debts afterwards be made to appear, hee or shee shall Refund his or her Rateable part thereof, and of the executors or administrator's charges accreuing thereby. And that all such of the Intestates relations and persons concerned who shall not Lay Legal claims to the said estates within seven years after the Decease of the Intestate parties, shall be debarred for ever.

Persons receiving distributive shares, to give bond.

When claims to be barred.

Executors and guardians to give bond.

And be it further enacted by the authoritie aforesaid, that all executors and guardians to persons under age, shall give sufficient bond to the Court of Orphans in all the precincts where they Live, faithfullie to Discharge their trust; And that the said obligations shall stand in full force and virtue till they have past their accompts in Court and are legallie Discharged.*

5. THE LAW AG'T. SWINE RUNNING ATT LARGE IN THE COUNTIE OF BUCKS.

Preamble.

Whereas, Divers complaints have been made by Divers of the Inhabitants of the Countie of Bucks, but especially by those that live fronting the River Delaware, that by reason of the great Land floods that frequentlie carried away their fences, they have Received much Damage by Swine running at Large—

Swine prohibited from running at large.

Be It therefore enacted &c, That no person inhabiting within the townshipps of the falls & makefield whose Lands Ly fronting or not fronting the River Delaware in the Countie aforesaid, shall from and after the tenth day of the tenth month next suffer anie swine to go at Large within the Distance of two miles & a half from the said River in the said townshipps aforesaid upon the forfeiture of five shillings per head for all such swine, one half to the parties damnified, the other half to the publick use of the townshipp, where such Dammage shall be done. And if anie swine belonging to anie person Living within the bounds aforesaid, Shall suffer his swine to Come upon the meadow or Corn Land within the aforesaid Limits, The owner of such swine shall forfeit five shillings per head, for all such swine, The one half to the partie damnified, and the other half to the public use of such respective townshipp as aforesaid.†

Penalty.

Punishment of owners for allowing them to come upon meadows.

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*A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 9, Chapter 31.

†A general law to the same effect passed in the year 1700—See Bioren's Laws, vol. 1, page 25, Chapter 77.

6. The Law about married women having Children in the absence of their Husbands.

And be it Enacted by the Authoritie aforesaid, That if any woman within this government shall have a child born of her bodie in the absence of her Husband, and shall not be able by credible evidence to prove that her Husband hath Cohabited or been in companie with her within one year Last past, before the birth of such Child, such woman shall be Liable to be Corporally or pecuniarily punished as in the case of fornication.

Punishment of wives for having children in absence of husbands.

7. The Law ag't Swearing.

Be it Enacted by the Authoritie aforesaid, That whosoever shall swear in their Comon Conversation by the name of God or Christ or Jesus, being Legally Convicted thereof shall pay five shilling or suffer five days Imprisonment in the house of correction at hard labour, to the behoof of the public, and be fed with bread and water only, during that time, And for the second offence six shillings, or six days Imprisonment as aforesaid, And for the third offence ten shillings or suffer ten days Imprisonment as aforesaid, & if such person shall after presume to Committ the same offence & be Legally Convicted thereof, hee shall be fined att the Discretion of the Countie Court not exceeding five pounds or be compelled to work in prison at hard Labour as the said Court shall think fitt, not exceeding two months & shall be Deemed a Comon swearer. *And be it further enacted* That whosoever shall swear by anie other name or thing, and is Legallie Convicted thereof, shall pay for everie such offence half a crown or suffer three days Imprisonment in the House of Correction at hard Labour having only bread & water for their sustainance, ainy Law, custom or usage to the Contrary notwithstanding.

Punishment for swearing.

8. The Law for Selling the old Court House of Chester.*

Vera Copia Originalis ut supra, pag. 74, By mee
PAT. ROBINSON, *Secry.*

*Neither the original roll nor manuscript copy of this law can be found. In the Preamble of an act passed in the year 1701, entitled "An act to assure, grant and convey unto Ralph Fishburn, of Chester, in the county of Chester, gentleman, one messuage, cottage house or tenement, and the lot of land thereunto belonging, situate in Chester, in the county of Chester, aforesaid, formerly known by the name of the old court house, to hold to the said Ralph Fishburn, his heirs and assigns forever," it is referred to, as follows: "WHEREAS, By an act of General Assembly of the Province of Pennsylvania and Territories,

The Laws made and past by W^m Markham Esqr. Lieut. Governour (by virtue of a power granted by the Right Honourable W^m Penn absolute Proprietor & Governour, of the Province of Pennsilvania & the territories thereunto belonging, by and with the advice and consent of the representatives of the freemen of the said Province and territories in General Assembly met att Philadelphia in the sd. Province the tenth day of May in the 10^th year of the reign of W^m the third of England & King &c. in the —— year of the Proprietaries government over the said Province in America Annoq Domi 1698, under the hand of the said W^m Markham & the seal of the said Province.

THE LAW CONFIRMING THE LAWS OF THIS GOVERNMENT.

Former laws, declared in force.

1. *Be it Enacted by the Lieut Governour with the advice and Consent of the representatives of the freemen of the said Province & territories in General Assembly met & by the Authoritie of ye same.* That the Law called, The frame of government, made Enacted & past in the year 1696 and all other Laws heretofore made & past and are now in force, are hereby Enacted & Declared to be the Laws of this Government, Except such Laws as are by any of the Laws made or that shall be made this General Assembly repealed, or such parts of Laws as are varied or added unto. *Provided*, that nothing herein Contained shall be Deemed or taken to inforce any part of the said frame of government which the Proprietor shall Disannull, as therein is Exprest.

2. AN ACT FOR PREVENTING FRAUDS & REGULATING ABUSES IN TRADE, WITHIN THE PROVINCE OF PENNSILVANIA & COUNTIES ANNEXED.

Preamble.

Whereas, the persons Lately come over Collectors or officers of the King's Customs for this Government Having taken their chief residence, the one att the port of Philadelphia the other att New Castle, & the third, not yet arrived, to be att Lewis in Sussex County; Between which ports, to wit, Lewis & New Castle Lyes the County of Kent, where

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held at Philadelphia, in the said Province, the tenth day of May, in ye ninth year of ye reign of King William the Third, of England, &c., and in the year of our Lord one thousand six hundred and ninety-seven, first reciting that whereas the inhabitants of the county of Chester having built a new court house, the justices, with the consent and approbation of ye grand jury, did sell their old court house unto John Simcock for the discharging of a certain debt due to him from the said county, and in order to give him an assurance for the same it was enacted that the said justices, then in commission for the said county of Chester, or any three of them, should be enabled and were thereby enabled and impowered by their deed or deeds, under their hands and seal of the said county to convey and assure the said old court house and land unto the said John Simcock, his heirs and assigns forever."

most of the tobacco of this river is raised, And for want of an officer residing there it may prove very Detrimental to the King's interest and may give an opportunity to ill minded persons to promote illegal trade & Defraud the King of his Customs. For preventing whereof, *Bee it Enacted by the Authority aforesaid*, that Dover river in the said Countie of Kent shall be a member of the port of New Castle including all the Creeks & Rivers in the said Countie of Kent, for the Importation & exportation of all goods and merchandizes. And that the Chief officer of the King's Customs, or such other officer or officers as have power to make Deputies to manage the Kings Dutys in this Province & territories shall make and appoint one or more Deputies Constantlie to reside and attend in some Convenient place in or near the said member, until the Commissioners of the Customs do signify their pleasure therein, and shall also make and appoint a Deputy to attend the said port of Lewis, until the Collector appointed for that District shall arrive there.

Dover river to be part of port of New Castle.

Customs' officer, to appoint deputies.

And that the Lieut. Governour & Council shall adjust, settle & declare the extent & limitts of the said ports & members, and assign, allow & appoint such & so many members, harbours, Creeks and keys belonging thereto as they shall think needful and most Commodious for the Kings service. Att which ports the Collector or officers of the Kings Customs now and for the time being shall reside, as their respective Commissions or instruments from the Commissioners of the Customs from time to time may direct or oblige them, and there by themselves or sufficient Deputies shall Constantly attend the service and performe the Duties of their several places, according to the Laws of trade and true intent and meaning of this act.

Governor and council, to declare limits of ports, &c.

Collectors of customs to reside at ports.

And it is further enacted by the Authority aforesaid, That no officer or officers belonging to any or either of the ports, Harbours, Creeks or members appointed or to be appointed within this Province & Counties annexed, shall without just and reasonable Cause, Detain any Ship or Vessel inward or outward bound, under colour of searching the goods therein loaden, above one tide, upon pain of rendering treble Damage to the master and owner of the said ship or vessel so Detained, To be recovered in any Court of record within this government And to the end, that all frauds and Abuses in trade so injurious to the King and Discouraging to Lawful traders may as much as in us Lyes be prevented, and the Acts of Trade and Navigation duly enforsed so farr as they relate to this government.

Detention of vessels for purposes of search.

It is further enacted by the Authority aforesaid, That if anie person or persons being duly Convicted or found guilty in anie Court within this Government of Importing or Exporting any goods or merchandize or of exercising any illegal trade contrary to the acts of Navigation, Shall not onlie be Liable to the pains, penalties and forfeitures mentioned in the act or acts of Parliament, which they shall so transgress, but be fined by the Governour & Council in any sum not exceeding the value of the goods so imported or exported as aforesaid.

Punishment for importing and exporting contrary to law.

And wheras Tobacco's the only enumerated Commodity of this Country growth, yield so Considerable a Duty to the King, It is highly necessary that Diligent care be taken to prevent the illegal exportat'n thereof.

Illegal exportation of tobacco, prohibited and punished.

Therefore *It it further enacted by the Authority aforesaid*, that if any tobacco shall be laden or taken in from the shore into any boat or vessel whatsoever to be carried on board any Ship or Vessel outward bound for the parts beyound the Seas, or shall be found Carrying by Land or water Into any other government, or shall be laden or taken in, from or out of any Ship or Vessel coming in and arriving from any foreign or other parts, without a warrant or permit from one of the Collectors or his Deputy, or other officer aforesaid, Such boat or vessell, Cart or Carr, waggon & Team So carrying or Conveighing the said tobacco, shall be forfeited and lost, and the marchant, freighter or owner, boatman, waterman or any other person offending therein and knowing and consenting thereunto, shall forfeit the said tobacco and pay two shillings per hundred as a fine: And that no tobacco shall be shipt or put on board any boat or vessel, to be carryed forth to the open-bay or river Delaware, from any port Creek or place in this Province and counties annexed, to be Landed at any other port or place of this government without a permit first had from one of the said Collectors or his Lawful Deputy or officer aforesaid, upon pain of forfeiting all such tobacco or value thereof, To be recovered in any Court of Record within this Government. *Provided* the party offending therein be prosecuted within Twelve months after the offence Committed. Which permitt or permitts for carrying or Conveighing of tobacco from any one port or place of this Province & territories or Counties anneaxt Into anie other port or place in the same Province & territories or Counties annexed, shall without delay be given & granted by one of the said Collectors or his Deputy or officer aforesaid to such person or persons as shall request the same without Demanding or taking any Custom, fee, duty or reward whatever, other than what is hereinafter allowed for such permit upon pain of rendering treble Damage to the party grieved to be recovered as aforesaid.

Permitts to ship, to be given by collectors.

Punishment for loading and unloading vessels without license.

And that no Ship or vessel inwards or outward bound shall Load or unload anie tobacco or other enumerated commodities or any European goods, Save only att such of the said ports, harbours, Creeks & members as the Merchts. or Masters Concerned shall think fit, without License first had from one of the said Collectors for loading or unloading elsewhere, Upon pain of forfeiting their Ships or vessells with their tackle, furniture and apparrel.

Magistrates and officers to assist collectors.

And It is further enacted by the Authority aforesaid, that all the Magistrates & officers of this government shall be aiding and assisting to the Said Collectors & officers of of the Kings Customs in the due performance of their respective Dutys as they shall answer the contrary at their peril.

Appropriation of penalties.

And that all fines & forfeitures before & hereafter mentioned not in this act particularly Disposed of, shall be, one

third part to the use of the King, one third part to the Governour of this Province, and the other third part to such person or persons as shall sue for the same.

And whereas, by an act of Assembly held here in the year 1696 intitled, The frame of government of the Province of Pennsylvania & territories thereunto belonging, there is a Clause therein contained in these words, To wit—"*Provided always* & it's hereby intended that nó person shall be, by this Act excused from swearing who by the act of Parliament for trade & navigation are or shall be required to take an oath." Since the making of which act, there was sent to the government an Act of parliament made in the 7th & 8th year of the King Entituled, An Act for preventing frauds & regulating abuses in the plantation trade, whereby It is amongst other things Enacted, That from and after the 25th day of May 1698, No ship or vessel whatsoever should be deemed or pass as a ship of the built of England, Ireland, Wales, Berwick, Guernsey, Jersey or anie of his Majesties plantacons in America, so as to be qualified to trade to, from or in anie of the said planta'ns until the person or persons claiming propertie in such ship or vessel should Register the same by proof upon oath of one or more of the owners of such ship or vessel, as by the said act is Directed.

Registry of vessels, and taking oaths.

Now forasmuch as most part of the Merts. traders & owners of ships or vessells within this government being of ye people called quakers, who, for Conscience sake cannot take an Oath upon anie acct. whatsoever; In which respect It will be very prejudicial to the Kings interest, Destructive to trade and a ruin to many families to Lay up their vessells and be deprived of the Liberties and priveledges of English subjects, as must unavoidably follow, if their Solemn affirmat'n. or attestat'n. be not accepted here instead of an Oath, as it is in the like Case and upon ye Same and other occasions verie favourably allowed to be in England.

And for as much as ye said act of Assembly was made for the relief of those who for Conscience sake refused an Oath in any Case, and is hereby Declared so to be, And the recited clause in the said act of Assembly contained was not intended to excuse such from taking an oath, who are not Conscientiouslie Scrupulous therein, nor to Qualify any to be Governours or officers of the Customs (without the Kings dispensation) who by the Acts of trade are required to Swear.

Therefore *It is enacted by the Authoritie Aforesaid*, that all & every person or persons who are or shall be Masters Merts. Mariners on taking charge of any ship or vessel whatsoever, or who are or shall be owners or claiming propertie in any Ship and other vessel, and every other person & persons who Cannot for Conscience sake take an oath and shall be required to take the oath in the said act of Parliament mentioned, or anie other oath in that or in anie other Case relating to the acts of trade & navigation whatsoever & wheresoever, by the said Acts an oath is or shall be required, shall, insted of an oath be permitted to make his or her Solemn Affirma'n. Attesta'n. or Declara'n., The Said recited Clause

Persons conscientiously opposed to oaths, may be affirmed.

or provision in the Said Act of Assembly or frame of government to the Contrary in anie wise notwithstanding. Which said Solemn affirm'n. or attest shall be adjudged and taken and is hereby Enacted and Declared to be binding and most available in Law and shall be accepted instead of an Oath in all Courts and other places within this government, where, by the Said Acts an oath is required Concerning the premises.

Punishment for affirming falsely.

And whosoever shall be Lawfully Convicted of willfull & Corrupt false hood in what they so as aforesaid declare and Affirm, shall incurr the same penalty & forfeitures as by Law is provided against persons Convicted of willfull & Corrupt perjury, any Law or Custom to the Contrary notwithstanding.

Trials for breach of acts of trade.

And It is further Enacted by the Authoritie aforesaid, that when anie Bill, plaint or information shall be Exhibited or Commenced against anie person in anie Court to be held within This Province or territories, for or upon breach or Non-observance of anie of the Acts of trade or Navigation in anie Case Whatsoever, The mean or manner of trial shall be according to the course of the Comon Law, known practice of the Courts of record within this government by twelve Lawful men of the neighborhood, where the offence is Committed.

Whereas, by the said Acts of Trade & instructions from ye Commissioners of the Customs many things are required to be transacted and done by the Governor which cannot be Effected without great charge as well as trouble; In Compensation whereof the said representatives in this General Assembly met do by the Authoritie aforesaid give & grant to the Governor for the time being, a duty of Eight pence per tonn upon Every ship or vessel coming into this Province or Counties annext whose owners or major part of them at her arrival are not inhabiting within this government, and for everie ship or vessel coming in as aforesaid belonging to the inhabitants of this Province or Counties annext a duty of foure pence for each tonn.

Tonnage duties.

The tonnage of every vessell to be computed according to her registry.

This duty to be Continued to be collected for the space of three years and no longer.

Fees of naval officer and collector of customs.

And be it further Enacted by the Authoritie aforesaid, that it shall and may be Lawful to or for the Naval Officer & Collector of the Kings Customs now or hereafter belonging to this Province & territories, to Demand, receive and take the fees hereinafter Limited and appointed, That is to say: The master or merchant of Everie Ship or vessel of the burden, according to the registry, of twenty tonns and upwards Coming from Sea into, and going out to Sea from this government, shall pay unto the naval officer belonging to the port where such master or mert. is obliged or thinks fit to unload, or clear his or their vessel, the sum of fifteen shillings for each ship or vessel and no more.

And for all vessels under that burden coming & going out as aforesaid, the sum of ten shilling each vessel, which said

sums are and shall be in Lieu of all fees & allowances Due or to be due or payable unto the Naval Officer for the time being, for entering, clearing, examining certificats packets, receiving accounts of goods shipt, taking of bonds & all other charges pertaining to the entering and clearing ships or other vessels att the Naval Office.

And that the master or mert. of every ship or vessel of the burthen, according to the Registrie, of twenty tonns and upwards coming from sea into this government, shall pay unto the Kings Collector or his Deputy belonging to the port where ye said master or mert. of such ship or vessel is obliged or shall think fit to unload, the sum of six shillings for Entering Inward and permit to unload, and the sum of six shillings more for Entering & clearing outwards.

And for all vessels under twenty tonns Inward bound five shillings and ye sum of five shillings more for Entering and clearing outward.

And for every permit to carry tobacco to & fro within this River of bay of Delaware, for Every four hhds. or under, six pence, and for Every hhd, above four one penny each, and for everie Certificate six pence, And for every permit or certificate that European goods are duly imported ten pence.

Which said several sums so as aforesaid alloted to the said Collectors, are and shall be in Lieu of all fees and allowances, Due or pretended to be due or payable from any of the Kings subjects to ye said Collectors for the time being, by virtue of their respective offices.

And it is further Enacted by the Authoritie aforesaid, that if anie of the said Collectors or Naval Officers by themselves, their Deputies or Servants or anie of them shall under any pretence whatsoever, take exact, require or receive from any merct. or other the Kings subjects in any port or place of this government Directly or Indirectly any other or greater fee, reward or gratuity than is herein before Limited & appointed, And if anie of the said officers shall presume to Demand or Exact anie fee or reward of anie, master or merchant or other person belonging to anie ship or vessel outward bound after shee is duly cleared att anie of the said ports, such officer or officers so offending in anie of the said cases, shall pay unto the partie grieved treble damages to be recovered in any Court of Record within this government. Punishment for exacting illegal fees.

And for the further preventing of frauds and abuses.

It is enacted by the authority aforesaid, that if anie Ship or vessel shall be brought into this government under anie pretence whatsoever, and shall not be duly Entered and Qualified to Trade, according to the Acts of Navigation & the Laws of this government, Shall not onlie be Liable to Seizure & Condemnation; But also if the Master of such ship or vessel shall wilfully neglect or refuse to bring up his Ship, within the Limits of one of the Said ports, or by force or violence shall resist or oppose the Kings officer or officers, Magistrat or Magistrats in the dischargo of his or their Duty in that behalf, all such Master Merts, or Ships Companies so refusing or resisting shall be deemed and taken as Enemies to the King and this government, and it Shall be Lawful for Vessels not registered, liable to seizure. Masters neglecting to bring vessels within ports, or resisting officers, to be deemed enemies.

Their arrest, &c., authorized.

all Magistrats, Officers and others within this Province & Territories to apprehend all such Masters, Merts. & Ships Companies & Seize their boats & goods & Secure them, until Discharged by Due Course of Law, Orr until such Ship or vessel shall be surrendered unto the government in order for a trial, according to Law, And all persons whatsoever are hereby Strictlie prohibited and forbidden to buy, Sell, deal, trade or barter with any such Ship, Master, Merct, or anie other of the Ships Company so resisting or refusing obedience, as aforesaid.

Trading with such vessels, prohibited.

Punishment therefor.

And whosoever shall be duly Convicted of so Doing, or be aiding & abetting to such Offenders, shall be punished by fine and imprisonment, according to the nature of the offence.

3. THE LAW FOR THE CONTINUATION OF AN ACT ENTITULED, THE LAW FOR THE SPEEDY COLLECTING THE ARREARAGES OF THE ASSESSMENT LAID IN 1696.

Preamble.

Whereas, ther was an Act made in the year 1697 Entituled The Law for the Speedy Collecting the arrears of the assessment laid in 1696, which was to Continue until and be in force Until the rising of this Assembly & twentie days after;

But the receiver of the Said tax, reporting that Divers of the Collectors have not as yet brought in the respective sums they stand charged withall, and that its requisit that the said Law be Continued for the collecting the said arrearages.

Law continued for one year.

Be it Enacted and It is hereby Enacted by the Authoritie aforesaid, That the said Law entituled as aforesaid, & everie branch and part thereof be and is hereby Continued to be in full force for one year after the rising of this General Assembly and no Longer, any Law, Usage or Custom to the Contrarie hereof in any wise notwithstanding.

4. THE LAW SUPPLEMENTAL TO THE LAWS AGAINST ROBBING & STEALING.

Preamble.

Whereas, in the Petition of Right there are two Laws for the punishing of Thieves, The one Entituled A Law against Hogstealers, The other Entituled, A Law against Robbing & Stealing; But the Several punishments mentioned in ye said Laws being so easie that they have not answered the good end proposed in making thereof, for that many dissolute persons, not with standing ye said Laws, have Committed Divers thefts and robberies within this government, for the prevention of which,

Be it Enacted by the Authority aforesaid, that if anie person shall be Legally Convicted of Stealing or fraudulently taking or Carrying away of anie Living goods from anie Inhabitant or others in this Province or territories, and that the same goods or things stolen be found alive and returned to the owner att his or her Dwelling house, the fellon shall make double satisfaction. And in Case the goods stolen shall be dead goods or meerly personal or living goods and not restored as aforesaid, being under the value of five Shillings, the fellon or thief shall pay to the owner thereof four-fold. Punishments for larceny.

But if the goods so Stolen amount to the value of five Shillings or upward, then the fellon or thief shall pay unto the owner four-fold, and be whipt on his or here bare-back, not exceeding twenty one Lashes, and be ordered by the Court upon penalty of banishment to wear such a badge or mark of his or her thievery, upon the out side of his or her outer garment in open view, upon the outer part of the Left Arme betwixt Elbow & Shoulder att all times when ever hee or shee shall travel or be seen from his or her habitation or plantation, where hee or shee shall live on every day from Sun rising unto Sun setting, for the space of six months, which mark or badge of his or her thieving shall be thus, with a Roman T, not Less than foure inches in Length each way, and an inch in breadth, of a differing colour from his or her said outer garment either Red, Bleu or Yellow, as the Justice of the said Court shall direct. And for the second offence hee or Shee offending as aforesaid, Shall Receive thirty nine Lashes on his or her bare back, well laid on, and be banished outt of the government never to return again, upon such penalty as the County Court shall think fit to Lay upon such persons.*

5. The Law to encourage bringing in of money to promote trade, and make payments more easy within this Province and Territories.

Be it Enacted by the Authoritie aforesaid, That from and after the publication hereof, all Peru pieces of eight not less than Twelve penny weight and Lyon or Dog dollars shall pass att six shillings, all other pieces of eight and dollars fifteen penny weight shall pass for seven shillings, and for every penny weight above shall be advanced four pence, and for every penny weight under shall be abated four pence, and half picces shall pass proportionally, all Double bitts at Twenty pence, all single bitts att ten pence, and half bitts att five pence, any Law to the contrary notwithstanding. Current value of coins.

Be Itt further Enacted by the Authority aforesaid, That if any person or persons within this Province or territories Punishment for clipping or impairing value.

† A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 3, Chapter 7.

shall for lucre sake, Clip, Marr, Rennder, file or by any ways or means whatsoever impair, Diminish or falsify anie of the money, or Coynes, allowed to be current here, such person or persons so offending, together with his or their accessaries, aiders and abetters, being duly convicted thereof, shall forfeit one hundred pounds, & shall suffer close imprisonment, one whole year, without bail or main-prize, which said fine shall go; one third part to the informer, and the remainder to the publick use of the County, where such offence shall be Committed, and if anie person or persons within this government shall after publication hereof utter or pay any Lead or pewter farthings or half pence, or any brass or Copper farthings or half pence owt of the Kings Coine, But put out by private persons, and be duly Convicted thereof before one or more Justice of ye Peace by proof of one or more wittnesses, shall pay five shillings for everie such offence for ye use of the Governour. And that the first putters outt of ye said brass or Copper farthings or half pence as aforesaid, their executors or administrators shall be obliged to make satisfaction for the same, to all such as shall return them within six months after publication hereof.

For passing counterfeit coins.

6. The Law for Regulating Streetts and Water Courses in the Cities and towns of this Government.

Preamble.

Whereas, by the frame of this government, It is amongst other things enacted, that the Governour and Council for the time being, shall att all times Settle or order the situation of all cities, & market towns, modelling therein all publick buildings, streetts & market places, and shall appoint all publick Landing places of the towns of this Province and territories;

Now that the true end and interest of the said act may be answered, And in as much as the ornament of towns and Conveniencie of the inhabitants, so much Depend upon the well regulating of streets & Landing places, & that the same Landings, Streets & water courses therein may be effectually regulated and repaired:

Appointment of persons to regulate streets, clean docks, &c.

Be It enacted by the authoritie aforesaid, That the Governour with four of the Council from time to time shall nominate and appoint such and so many as they shall think needful of the Substantial Inhabitants of the said towns respectively when there may be occasion to regulate the said Streetts & water Courses, and to order the pitching, paving and gravelling thereof, as also the Clearing of Docks where such may be, and repairing Landing places & bridges in the said towns, which persons so appointed or the major part of them are hereby Impowered to agree with and imploy workmen for performing the same from time to time. And as for concerning the Charge of pitching or paving, gravelling and regulating of the said streetts or scowring or cleaning the

How charges for such work, to be paid.

Docks, each inhabitant concerned shall pay towards ye same in proportion to the number of feet of his or their Lotts or Lands adjoining on each or either side of the said Streets of Docks. And as to the charge of repairing Landing places, bridges, making Common shores and paving or pitching, gravelling and regulating anie part of the Streetts, or scowring or clearing anie part of the Docks not belonging to the private inhabitants but to the publick, each Inhabitant in the respective town shall pay their proportional rates, according to their estates in each town: And for the defraying of all which Charges aforesaid, It shall & may be Lawful to and for the said persons so to be appointed as aforesaid or the major part of them with the advice and assistance of the Justices of the respective Counties, or att least two of them, who reside in or neer the said respective towns, where and as often as occasion shall require to Calculate and Compute the said charge and thereupon with the assent of the Governour & four of the Council, Equallie to lay rates or assessments for Levying the same upon the Inhabitants of their towns and Cities respectively, and the same being so rated, the said assessors shall forthwith appoint Collectors and Receivers thereof. And in case of non payment of any sum or sums of money by virtue of this act to be levied; It shall be Lawful for any such Collector by virtue of a warrant under the hand and seal of anie Justice of ye Peace for the Countie where such non payment is or shall be (who by virtue of this act are required and authorized to grant such warrantts) to Levy the same by a distress and sale of such person or persons goods or other Estate. Returning the overplus, if aine be, to the owners after such sum assessed or destrained for, with all charges are deducted.*

Also, charges for public work.

Levy and collection of rates to defray same.

The above six laws from page 82, to page 94 are a true transcript or Duplicate of the Laws of the said Province and Territories &c, made and past the tenth day of May 1693, now in force until his majesties pleasure shall be further known, as they remain on the files in the Secretaries office of the Province. Examined and compared therewith and found to agree with ye same, this 10th day of May 1698, by me.

PAT: ROBINSON, *Secry.*

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 17, Chapter 53.

THE LAWS MADE AND PAST

By W^m^ Markham Esqr, Lieut Governour (by virtue of a power granted to him by the right Honorable W^m^ Penn absolute Proprietor & Governour of the Province of Pennsilvania & the territories thereunto belonging, by & with the advice & Consent of the representatives of the freemen of the said Province & territories in General Assembly met at Philadelphia in the said Province the tenth day of May in the eleventh year of the reign of W^m^ the third of England, King, and in the —— year of the Proprietaries government over the Said Province in America Annoq Domi. 1699, under the hand of ye Said W^m^ Markham & the Seal of the Said Province.

1. THE LAW CONCERNING ELECTIONS OF REPRESENTATIVES IN COUNCIL AND ASSEMBLY.

Preamble.

Whereas, this government by the Laws & Constitu'ns. thereof is to consist of the Governour or his Deputie or Deputies and freemen of this Province and territories in form of a Council and Assembly, which from and after the tenth day of the first month 1696, were to consist of two persons out of each Countie as the peoples representatives in Council and four persons out of each Countie to serve in Assembly, for the election of whom the Said freemen have libertie to meet together on the tenth day of the first month yearlie in the most Convenient and usual place of election within the respective Counties, then and there to choose their Said representatives.

And whereas, the freemen of the Countie of New Castle having neglected to make their choice of representatives on the tenth Day of March Last past, the Governour sent his writt requiring the Sheriff of that Countie to Summon the said freemen to meet in the usual place of Election the first day of the 3^rd^ month instant, when and where a considerable number of them came but utterlie refused to make anie Choice of representatives to the great Contempt of the Governour and of the power and Authoritie of this government and a most manifold Slight of that inestimable priviledge of being represented in Legislation by reason of their owne choice.

Now forasmuch as there is no Law of this government that Directs the punishment or penaltie which ought to be inflicted upon the Counties, so neglecting and refusing; nor upon such Sheriffs as shall refuse or neglect the Dutie of their offices in that behalf.

Therefore *It is enacted by the Governour, Council and Assemblie of this Province and territories and by the authoritie of the same*, That if the freemen of Anie of the Counties within this Province & territories shall neglect or refuse to elect their Said representatives according to the tenor and direction of a Law past in General Assembly held att Philadelphia in the 9^th^ Month, which was in the year 1696; entituled, the frame of government of the Province of Pennsilvania & territories thereunto belonging, Then and in such

Punishment for neglecting to elect representatives in council and assembly.

case the people and inhabitants of the Countie or Counties so offending shall be amerced by the Governour and major part of the members of Council for the time being, att their first Sitting next after such neglect or refusal happens in the sum of One hundred pounds in Lawful Current Money of Pennsilvania to be Levied by distress and sale of the goods and chattells of anie four or more of the said inhabitants so as aforesaid refusing or neglecting to elect. Which said sum or sums so to be Levied with all costs & Damages sustained, shall be deemed as a County charge & shall be rated and assessed accordinglie for the reimbursement of the persons upon whom the same shall be Levied.

For neglect of duty by sheriffs.

And be it further enacted, that if the Sheriff of anie Countie or Counties within this Province & territories shall refuse or neglect the Duty of his office in the said elections, or shall with stand prevent or Discourage the same, such Sheriff, or Sheriffs so offending shall be amerced in the sum of fiftie pounds money aforesaid.

For absence from service in council and assembly.

And it is further enacted by the Authoritie aforesaid, that if anie of the persons elected will not appear and do willfully absent themselves from their Service in Council and Assembly respectively, then hee or they so absenting, shall be fined, To wit; Council, members by the Council, and Assembly, members by the Assembly, in anie sum not exceeding Twenty Shillings per Day, all which amerciments or sums of money accruing by this Act shall be Levied by warrantts from the Governour & Council Directed to the Coroner or Coroners of the respective Countie and paid into the Treasurie and Provincial stock for the use and service of the government.

When less than a quorum may act.

Provided always, that if so many of the said Counties shall happen to neglect or refuse to make elections or absent themselves as aforesaid, whereby a Quorum As required by the said frame of government cannot be had in both Council & Assembly respectivelie, then it shall and may be Lawful to and for the members of Council and Assembly that do meet with the Governour or his Deputies as aforesaid, to act and proceed in all matters requisit and necessarie for executing the powers of the Government.*

2. The Law for the Continuation of an Act, entituled, The Law for the Speedie Collecting the arrearages of the assessment Laid in the year 1696.

Preamble.

Whereas, there was an Act made in the year 1697 Entituled, The Law for the speedie Collecting the arrearages of the assessment Laid in 1696, which was to Continue and be in force until the rising of this Assembly and twenty days after; *And whereas*, there was a Law made in the year 1698

*A similar law passed in the year 1700—See Bioren's Laws, vol. 1. page 7, Chapter 28.

for the continuing Of the said Law for one year more after the rising of the Last General Assembly But the Receiver of the said tax reporting that divers of the Collectors have not as yet brought in their respective sums they stand charged withall, and that it is requisite that the said Law be continued for the collecting of the said arrearages.

Law continued in force.

Be it Enacted and it is hereby enacted by the Authoritie aforesaid, that the said Law entituled as aforesaid and everie branch and part thereof be and is hereby Continued to be in full force until the Said arrearages be fullie gathered.

3. THE LAW FOR RAISING THE RATE OF ONE PENNY PER POUND AND SIX SHILLINGS PER HEAD &C FOR THE SUPPORT OF THE GOVERNMENT AND THE PAYMENT OF THE DEBT & DEFRAYING THE NECESSARIE CHARGES THEREOF.

Tax for support of government, to be levied.

Be It enacted by the Authority aforesaid, that all and every person and persons within this government having anie personal estate, either in their possession, or in the possession of others in trust for them, over and besides the household goods and implements they use, shall yield and pay to the use aforesaid after the rate of one penny per pound. And to the end that this Tax may be laid with as much equalitie & indifferencie as may be upon all lands within this government—*Be it enacted by the Authoritie aforesaid*, that all Lands & other rents as also the personal estates are hereby charged for one year onlie and no Longer with one penny for every pound clear value.

Rate to be paid by housekeepers.

And be It further Enacted by the Authority aforesaid, that all House keepers within this Province & territories shall be assessed and pay after the rate of one penny per pound for their clear Estate, excepting as is before Excepted.

And by male inhabitants.

And that all males within this Province and territories, who att the making of this act have been out of their servitude by the space of six months and shall be above the age of 21 years, being worth 72 lb. or upwards, shall be assessed & pay after the rate of one penny per pound, clear estate as aforesaid that such of the said males onlie as be not worth 72 lbs. shall pay six shillings per head. *Provided allways* that the Chief Proprietor and his Deputy in government shall not be assessed by virtue of this act.

Proprietary and deputy exempt.

Assessment and collection of rates.

And be it further Enacted by the authority aforesaid, that for the effectual putting this act in execution, The respective Justices or anie three of them within the respective Counties, shall call to their assistance four or more of the substantial freeholders as they shall see meet, and that they or the major part of them, shall within two months next after publication hereof meet together in their respective Counties and by warrant from some of the said Justices of the proper Counties cause the Constables within the said Countie to

bring in certificates in writting of the names of everie person residing within the Limits of the said places they shall be charged with and of the substances of everie of them who are to be rated by his act. Which said Constables shall be allowed by the Collectors three pence per pound for their trouble therein, Which said Assessors are hereby enjoyned to ascertain an in form themselves by all Lawful means they can of the true value of the clear Estate both real and personal within those Counties & Limitts with which they shall be charged respectively, And being thereof ascertained they are to assess themselves and others for or in respect of the said estates, according to the rates aforementioned, and there upon the said assessors shall cause the respective Clarks of the Counties to draw out Lists and fair Duplicates of the said assessments to be signed by the said assessors, for which the Clark shall be allowed twentie shillings respectively outt of the said assessment, and the said assessors shall appoint the Sheriff or such other person or persons of each Countie as they shall see meet to be Collectors of ye said rate, for which service the said assessors shall be payed and allowed by the Collectors six pence per pound outt of the said assessment.

And be it further enacted by the Authoritie aforesaid, that the said money so as aforesaid to be Levied, shall be paid att Philadelphia by the respective Collectors on or before the first day of the 2nd month 1700 (Danger of casualties excepted) unto James Fox of Philadelphia, merchant; but in case of mortality it shall be Lawful for ye Governour & Council to appoint some other person to be receiver, whose receipts shall be sufficient Discharge to such Collectors, which said Collectors for gathering the said sums shall retain in their hands respectivelie for every twenty shillings by them paid in as aforesaid the sum of one shilling, with all such reasonable charges, as shall appear to be due for portage of money or other pay by them Collected by virtue of this act as a reward for their pains.

Payment to receiver.

Compensation of collectors.

And be it further Enacted by the Authority aforesaid, that the said Receivers shall pay and Dispose of the said money in manner following viz: The Debts owing by this Government to the said Lt. Governour alreadie allowed by the Assemblies held heretofore, and this present Assembly first to be paid and next all other debts so allowed; And the remaining part to be for the Defraying necessarie charges of the government that hereafter may become due and as the Governour and Council for the time being shall order and appoint, a fair and true accompt whereof shall be rendered by the said Receiver to the Governour & Council, and by the Council to the Assembly to be held next after the said rate is raised for all such sums as aforesaid. And that the Collectors shall return and fairlie present to the General Assembly the said assessment with the names and several values of the respective estates with the real sums Levied by this act, and also that the said Receivers accompts with all the money and goods by him received and Disbursed by virtue of this act, shall be by him Certified to the Assembly, which

How moneys collected to be disposed of.

Accounts to be rendered governor and council, and assembly.

Compensation of receiver.

said receivers for their Care and trouble therein shall retain in their hands for everie Twenty shillings received and paid as aforesaid the sums of six pence.

Goods to be distrained for non-payment of rates.

And be it further Enacted by the Authority aforesaid, that if anie of the said Justices, Assessors, Clarks or Receivers shall refuse or neglect their respective Dutys in the premises and be Duly Convicted thereof, shall be fined by the Governour & Council in any sum not exceeding five pounds for such uses as the Governour and Council shall Direct. And the Governour and Council are hereby impowered to appoint such other Assessors and officers for the assessing and Collecting the same from time to time until the same be levied as they shall think fit:

And be it further enacted by the authority aforesaid, that if anie person or persons whatsoever, within this government who shall be assessed or rated any sum or sums of money by this act to be levied, shall Deny, refuse or Delay to pay the same, That then it shall and may be Lawful for any such Collector, by virtue of a warrantt under the hand and seal of anie Justice of the peace of the Countie where such offender shall reside, (who by virtue of this act are required to grant such warrantts) and to Levy the same by Distress and sale of such person or persons goods and chattells, Returning the overplus, if anie be, to the owners after the sum Assessed and Distrained for with all charges, are so deducted.

Proceedings on complaints made as to valuations.

Provided always, that if anie person or persons certified assessed or Rated for or in respect of anie estate, for which by this act he or they is or may be rated, do find him or themselves aggrieved with such rating and shall within a reasonable time before the same rate becomes payable, Complain to the Assessors who signed and allowed his, her or their rates, which said assessors shall appoint a Convenient time for such Complaint made, And there particularlie hear & examin the person or persons Complaining or anie others having the value of the Complainants real and personal estate, and thereupon the said Assessors shall abate defaulk or Confirm the said assessments, according as the Complainants shall appear to be worth, Either by the parties own attest or proof of others.

How rates to be received.

Provided, That the several Collectors gather and receive the respective sums assessed as aforesaid in Current monie of this Province, or for want thereof in good merchantable Country product, att the Current market price according to the Laws of this Government att such Convenient Landing places in each County as the said Assessors shall appoint.

Suits under act.

And be it further Enacted by the Authority aforesaid, That if anie person be sued for anie thing done in pursuance of this act, Such person so sued may plead the General Issue and give this Act and Special matter in evidence, and if the plaintif or prosecutor Shall be cast, the Defendant shall recover Treble Damages. *Provided always* that none shall hereby be punished by virtue of this act for any neglect or miscarriage in the execution thereof but within one year after such offence.

Limitation of prosecutions.

4. THE LAW FOR REGULATING BREAD, FLOWER & TOBACCO CASKS, TO A CERTAIN GAUGE, THE BETTER TO INFORCE A LAW MADE IN THE YEAR 1693, ENTITULED THE LAW ABOUT CASK & PACKING MEAT FOR TRANSPORTATION.

Whereas, difference hath often Happened between the freighters of goods & Masters of vessells for want of a certain gauge and size for Bread, Flower and Tobacco Cask; To prevent the Like for the future and that we may Come neer the Tonage of our Neighboring provinces. Preamble.

Be it Enacted by the Authoritie aforesaid, That from and after the first day of the eight month next, all Cask hereafter mentioned that shall be made for transporting shall be of the Dimensions following, viz Flower half barrell shall be two and twenty inches in the clear Length, sixteen and a half inches in the head inside, and nineteen inches Diameter in the bilge, clear also, Sixteen of which shall be a Ton: The Bread barrells shall be in the clear twentie-one inches in the head in the inside, & twenty seven inches in Length & Twenty foure inches and a half Diameter in the bilge clear also, Eight of which shall be a ton: The Terces for bread shall be twentie three and a half inches clear in the Head, and Twenty seven and a half inches in the bilge, (and thirtty one Inches and a half in the bilge) & thirtty one inches and a half in the clear length inside, Six whereof shall be a Ton: Dimensions of casks, fixed.

The Bread Hogshead shall be twenty seven inches in the head clear, thirtty one inches and a half in the bilge and thirtty six inches in the clear length, four of which shall make a Ton. And all other bread and flower Cask shall be proportionable to these gauges. And every Cooper shall sett his brand Mark upon every Cask hee makes upon the penaltie of paying two shillings for every such Cask that hee shall sell unmarkt, to be paid to such person or persons as shall be appointed by the County Courts in every Countie. Which said person or persons is hereby Impowered to take and receive the forfeiture of five Shillings for every Cask of bread & flower shipt or offered to be Shipt off unmarkt, as by the act made in the year 1693. Who shall also have power by this act to seize and take in his possession any such goods or Cask upon the owners refusal to pay the said fine, and upon such refusal the Said Officer shall by this Act have power to Dispose of ye Same, if not redeemed within one month after the Seizure, and shall return the Overplus if anie be, to the owner thereof. And one half of the said fines shall be to the publick use of the Countie where such default be made, the other half shall be to the officer that seizes ye same. Coopers to mark casks. Penalty for neglect. For shipping unmarked casks. Seizure and sale of goods on refusal to pay. Appropriation of penalties.

And for the better regulating anie abuse in this Case; *Be it Enacted*, That everie Cooper, Baker and Bolter, shall record their respective brand marks in a table or book for that purpose to be kept by the person or persons so nominated or appointed in their respective Counties. Coopers, bakers, and bolters, to record their marks.

And for the better enabling the Coopers to Complie with this Law; *Be it Enacted by the Authority aforesaid*, that all pipe-staves shall be four foot eight inches Long & four inches

Merchantable staves, defined.

broad clear of Sapp; Hhd. staves three foot and a half long and four inches broad clear of Sapp. Barrell staves two foot four inches Long, and four inches broad, clear of Sapp; And if they are not so, they shall not be deemed merchantable, but be accompted two for one. *And be it further Enacted by the Authority aforesaid* that all Tobacco Hhds. within the government shall be made four foot in Length & thirttie two inches Diameter in the head Which Sd Hhds. shall be Duly tared and the Planters to have five shillings for each Hhd., to be paid by the purchasor, Any Law, Custom or Usage to the Contrary notwithstanding.*

Tobacco hogsheads, how to be made and price for same.

5. THE LAW AGAINST PIRATES & PRIVATEERS.

Preamble.

For the better and more speedie execution of Justice upon such who have Committed treason, piracies, Murthers, fellonies and other offences upon the Seas and shall be apprehended or brought prisoners to this government;

Trial of treasons, murders, &c., committed at sea.

It is enacted by the Authority aforesaid, That all treasons, fellonies, piracies robberies, Murthers or Confederacies, Committed or that shall hereafter be Committed upon the sea or in any Harbour, Creek or Bay, where the Admiral hath Jurisdiction, shall be inquired, tryed, heard, determined and Judged within this Province & Territories in such Like form, as if such offence had been Committed in and upon the Land.

Commissioners of admiralty, to be appointed.

And to that end three substantial persons of this government, shall be appointed and Commissionated by the Governour and Council for the time being to Associat and assist the person who now is, or hereafter shall be appointed in England to be the Judge of Admiralty of this government, And in Default or absence of such Judge, then to associate and assist such person or persons as the said Governour and Council shall name and appoint from time to time, as there

Their powers.

may be occasion, Which said Commissioners, or such a Quorum of them as by such Commission shall be thereunto Authorized, Shall have full power to do all things in and about the inquiring, hearing, determining, adjudging & punishing anie of the Crimes and offences aforesaid as any Commissioners to be appointed by a Commission under the Great Seal of England, by virtue of a statute made in the 28th year of the reign of King Henry the eight are Impowered to do and execute within the Kingdom of England,

Offenders subject to orders, process, &c., awarded by them.

And that the said offenders which are or shall be apprehended in, or brought prisoners to this Government Shall be Liable to such Orders, process, Judgments and executions by virtue of such Commission or Commissions to be grounded upon this Act, as might be awarded or given against them if they were proceeded against within the realm of England by virtue of anie Comission grounded upon the said Statute.

* A similar law passed in the year 1700—See Bioren's Laws, vol. 1, page 26, Chapter 80.

And be it further Enacted by the Authority aforesaid, That all and Every person who shall any wise knowingly intertain, harbour, conceal, trade or hold any correspondence by letter or otherwise with any person or person that shall be adjudged to be Privateers or Pirates within the construction of this act, and that shall not readily endeavour to the best of his or their power to apprehend or Cause to be apprehended Such offender or offenders, Shall be liable to be prosecuted as accessaries or Confederates, and to sufferr such pains and penalties as in such case by Law is Provided and for the better and more effectual execution of this Act, *Be it further Enacted by the Authority aforesaid,* That all Justices of Peace, Sheriffs, Constables and other Officers in their several precincts within this government are Hereby Impowered and required upon his or their knowledge or notice given that any Privateers, Pirates or other persons suspected to be upon any unlawful design, are in anie place within their respective precincts, To Call to their aid and assistance such number of men as hee or they shall think needful for the seizure, apprehending and carrying to goal all and everie such person or persons, And in Case any shall refuse to yield obedience to such officer or officers being Convicted thereof, Shall be fined in five pounds Current money of this government. And everie such officer that shall omitt or neglect his Duty shall forfeit twenty pounds of like Current money for Everie such offence, To be recovered in anie of the Courts of record in this government, for and towards the support of the government and Contingent charges thereof, And the other moity to such as shall inform or sue for the same.*

Accessories to piracies, who to be deemed and punished as.

Officers empowered to summon assistance in arrest of pirates.

Penalty for refusing to assist.

And for neglect of duty by officers.

Appropriation of penalties.

6. The Law for Impowering the Justices in Each County to Lay outt and Confirm all roads, Except the Kings Highways and Publick roads.

And be it Enacted by the authority aforesaid, That all the Kings High-ways or Publick roads within this Province and territories, shall be Laid outt by order from ye Governour & Councill for the time being, which roads shall be recorded in the Council books with the Courses thereof as neer as may be.

How publicroads to be laid out.

To be recorded in council books.

And be it further enacted by the authoritie aforesaid, That the Justices of each Countie Court in this government, Shall and by this Act have power, as often as they find needful in Open Court to order and appoint six of the sufficient housekeepers of the neighborhood inhabiting neer any place where Complaint of the inhabitants is made for want of a road or Cartway into the publick or High-roads, Then to view the said place, And if the said Housekeepers or any

Private roads, appointment of viewers to view and lay out.

* Supplied by an act passed in the year 1700—See Bioren's Laws, vol. 1, page 29, Chapter 84.

four of them are satisfied that there is occasion and suitable Convenience for a road or Cartway att any such place, Then to Lay outt the same in such breadth as the Justices shall first order and appoint them. *Provided* it exceed not in breadth fifty foot, and make Return thereof in writting under their Hands to the next County Court after the Laying outt thereof; And if then and there the Justices approve of the same, Itt shall att the same Court be entered upon Record, and from thence forth to be taken, deemed and allowed of to be a Land Road or Cartway. And to prevent anie difference that may arise among neighbors about roads or Cartways laid outt, by order of the Governour and Council or any of the County Courts in this government and which are also entered upon record, before and after the making of this act; *It is hereby enacted by the authority aforesaid*, That all such roads and Cartways, shall be also taken, deemed and allowed of, to be Land roads & Cartways: *And be it further enacted by the authority aforesaid*, That if anie person or persons shall presume to Hinder or stop any of the said Highways, or other roads heretofore Laid outt, or hereafter to be Laid out & allowed, and shall Committ anie nuisance therein, by falling trees, making fences or otherwise and do not remove the same nuisance within two days after notice thereof given by anie of the parties agrieved, such person or persons shall forfeit the sum of five pounds for the publick use of such Countie. And it shall be Lawful for anie person to remove and clear such road and Cart ways of such timber, fencing and nuisance so laid, any Law, usage or Custom to the Contrary thereof notwithstanding.*

Breadth limited.

Return to court.

On approval, roads to be deemed cartways.

All such roads laid out, to be considered land roads.

Punishment for obstructing roads.

Removal of obstructions, authorized.

7. THE LAW FOR REGULATING ORDINARIES.

Be it Enacted by the Authority aforesaid, That no person within this Province and territories thereof, shall presume to keep any Ordinary or Publick Drinking House without Licence first had and obtained by the Governour for the time being, or whom hee deputes, And none to obtain such Licence but those who are recommended to the Governour in order thereto, by the Justices in Open Court in each respective Countie in which hee or they intend to keep such ordinary or Drinking houses, upon penalty of five pounds to be Levied by distress and sale of the offenders goods to the government use. Which Justices or anie three of them have hereby also power to Suppress such ordinary keepers, if they shall be convicted before them of Keeping or Suffering disorders in their houses, And the method of suppressing shall be, by their sending for the persons or party Concerned and Lay such Disorders before him or them that offends them; And if hee or shee do not give ye said Justices such satisfaction

Keepers of ordinaries, to be licensed.

Penalty for keeping same without license.

Suppression of disorderly houses.

*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 18, Chapter 55.

in the matter as shall or may induce them, to Continue his or her Licence, that then the said Justices may prohibit them by openly forbidding them to keep such ordinaries or drinking houses for the future, which prohibition shall be entered upon record by the said Justices; And if after the entering thereof anie person so suppressed shall presume to keep anie ordinarie or drinking house again, such person after Conviction thereof, in Open Court shall forfeit ten pounds, to be putt into the Countie stock where such offence is Committed, to be appropriated towards the defraying the publick charge of the Countie, except the said person so offending be again recommended as above and his or her Licence thereupon renewed. And if such person or persons so offending, & do or shall forfeit as aforesaid, shall refuse to pay ye same, then it shall be Lawfull for anie two Justices of the peace to Issue forth their warrant directed to the Sheriff of the Countie, or his deputy, to Levy the same by Distress and Sale of his or her goods, Returning the overplus to the owner, if anie be. And where no Effects to distrain on, are to be found to satisfie, In such case ye said person so offending shall be Committed to the Countie goal or House of Correction there to remain two months and to be kept att Hard Labour to the use of the Countie. And that the Justices shall cause his or her sign to be Immediately pulled down, for every offence after the said fine of Ten pounds or two months imprisonment as aforesaid.

Penalty for keeping ordinary after suppression ordered.

Goods may be distrained for penalty.

Where no goods, offender to go to jail.

And his sign to be pulled down.

This act to Continue During the Proprietors pleasure and no longer.*

8. The Law for appointing an officer to rectifie and Stamp money weights.

Whereas, there is a General Complaint among the Inhabitants of this Province and territories for want of a Standard for money weights. *Be it Enacted by the Authority aforesaid*, that no person within this Government from and after ye 24th day of ye 7th month next shall be obliged to receive or take anie money by any weights which are not of brass regulated and stampt by the person that now is, or shall be hereafter appointed for that purpose. Which said officer shall keep in his possession att all times a true standard of brass troy weights, according to the Kings standard of England, by which hee shall trulie and exactly regulate all persons weights that shall be brought to him, and stamp the same with his Stamp; for the doing of which Hee shall have one pennie for everie weight so stampt and rectified.

Preamble.

No person obliged to take money by weights not regulated by officer.

Standard to be kept, and weights regulated by it.

Which said officer shall have power once in 3 years to call anie persons weights to a new trial and stamp if occasion be. And for the more speedy putting this Law in execution Itt

Weights may be tested once in three years.

*Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 26, Chapter 78.

Execution of law.

shall and may be Lawfull for Thomas Paschal, Senior of Philadelphia to execute ye same as Long as the Governour & Council shall see meet. And in case of Death or other occasions the Governour & Council shall have power to nominate and appoint anie other person in his room. *And whereas* difference hath arisen about the goodnes & exactness of scales.

Weighing of money.

It shall be Lawful for the receivers of money to choose which end of the beam hee will have the money weighed on, if the payer be owner of the Scales. And if the money turn the scale, Itt shall be accompted passable.*

9. THE LAW TO PREVENT THE RUNNING OF STONE HORSES ATT LARGE.

Penalty for allowing stallions to run at large.

Be it Enacted by the Authority aforesaid, that no person within this Government, shall from and after the first day of the 2nd mo. next ensuing, suffer any Stone horse to Runn at large after two years old under thirteen hands high, four inches to the hand, upon forfeiting ye sum of twenty shillings for every such horse so runn·ng att large, which shall be by the owner of everie such horse paid to any freeholder, housekeeper or ranger of ye Countie within this government who shall take up and bring in anie such horse in the 2nd & 3rd moneth; But where the owner of ye said horse be found or known in one weeks time next after his so being taken up, Then to be delivered unto the ranger of the County, who shall cause the said horse to be geld, and published by fixing his certificial mark in writting upon the most publick Door or post in everie publick place in the respective County where such horse shall be so taken up, and cause him to be published in ye respective County Courts not less than two Courts, except the owner appear before, which said Ranger shall be paid the Twenty shillings as aforesaid, To be divided between the said Ranger and the parties that took up said horse, as also there shall be paid to the said Rangers a reasonable reward from the said owner of ye said horse for his pains and trouble; of which reward if the parties agree not, Itt shall and may be Lawful for one Justice of ye peace of ye said County to decide it. But if the owner of such horse or horses cannot be known in 12 mos. time after his being delivered to the ranger, then the same to be accompted and deemed a stray. And ye said twenty shillings to be then paid by the ranger of the County to the partie that took up the said horse or horses, Anie Law, Custom or usage to the Contrarie hereof not withstanding.

When to be delivered to county ranger.

Duty of ranger.

Compensation.

When to be deemed strays.

Allowance for taking them up.

* Supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 23, Chapter 71.

10. The Law about Attachments & Summones.

Whereas, there is a clause in a Certain Law of this government that no inhabitant in this Province & territories shall be taken for Debt before a trial, unless hee or shee be about to Depart out of ye same, and shall refuse to give sufficient bail for appearance att ye next Court, or securitie for the payment of the Debt, or hath not goods sufficient to be attached &c. But in as much as neither this Law nor other Law already made here, doth further direct the proceedings upon attachments, some have scrupled the legality of such procedure. Now that all doubt may be removed in that behalf. Preamble.

Be It enacted by the Authorite aforesaid, that all writts or warrantts heretofore granted by virtue of ye said Law or pursuant to anie Customs of cities or Corporations in England or according to anie Custom or usage in these parts of America, and all the Judgements, executions and proceedings had thereupon, shall be most absolute and conclusive in law against all persons or parties concerned their heirs, executors administrators and assigns; Unless the same be reversed for some manifest error or errors therein to be assigned by the said parties concerned and to be allowed of by the Governour & Council on this side the first day of June 1700. *And be it further Enacted*, that the Justices of the respective County Courts shall grant writts of attachments as they heretofore have done, which attachments so granted shall be dulie served by the respective Sheriffs or Coroners, as the case requires upon ye Lands and tenements, goods and chattells of such person or persons against whom the same shall be awarded in whos hands or possession soever the same may be found, Returnable to the next succeeding Court respectivlie, where the party may proceed to trial and Judgment in the same manner and with the like expedition as upon other process or plaints is accustomed. And that the person or persons whose estate or effects are so attached shall be called the Defendant in the attachment, and the person in whose hands or possession the said estate or effects are attached shall be called the Garnishee, and shall be obliged to appear in Court att the return of the attaching and answer what shall be objected against him and abide the Judgment of Court.

Former writs and proceedings thereon, conclusive.

Unless reversed before June 1, 1700.

Granting and service of attachments.

Proceedings thereon.

Who to be the defendant.

Garnishee.

And that the manner of executing writts shall be by the officers going to the house or land or to ye person in whos hands or possession the Defendants estate or effects are supposed to be, and then and there declaring in the presence of one or more Credible person of the neighbourhood that hee attacheth the said house or land or other effects, from and after which declaration, the House, Land, Money and effects so attached shall remain in the officers power, and be by him secured in order to answer & abide the Judgment of Court in that case.

Manner of executing attachments.

And if the plaintif in the attachment obtain a verdict Judgment and execution for the estate money or goods Attached in the garnishees possesion, yet the Defendant in the

How they may be dissolved.

Attachment may att anie time before the money be paid put in bail to the plaintifs action, upon which the attachment is grounded, wherby the garnishee will be immmediately discharged.

Finding of jury on plea of *nulla bona* by garnishee.

And if an Attachment shall be made for goods or effects and the garnishee plead hee had no goods or effects in his hands at the time of the Attachment or at any time after, and the plaintif prove the contrary, the Jury in such case must find for ye plaintif and say what goods or effects they find in the garnishees hands, whereupon Judgment shall be entered.

Goods found in garnishee's hands, to be appraised.

If not produced, execution to be awarded.

That then Appraisment be made of the said goods or effects so found by the Jury and a precept shall be granted requiring the sheriff to get ye same apprized; and if the garnishee will not produce them execution shall be forthwith awarded for the value thereof according to appraisment, To be Levied upon the Lands, tenements, goods and chattells of ye garnishee.

Against whom only writs of attachment to issue.

Provided allways, that no writts of Attachment shall hereafter be granted against anie person or persons but such onlie as at the time of the granting of such writts are not residing within this Province or territories, Or are about to remove into some other Colony or place, Or shall refuse to give Sufficient Securitie to the Complainant for the Debt or other Demand.

Not to be levied on goods previously attached.

Provided also, that no Attachment shall be made or laid upon Lands or tenements wher the party will show any good or chattells in his own or anie other person hands to be attached; And in all cases the House or planta'n where the defendant dwell shall be Last attached.

Bail to be given by plaintiff before execution awarded.

Provided also, that after Judgment obtained by the plaintif upon any Attachments against non residents, The plaintif must before execution is awarded find Surties who must Undertake for the plaintif that if the Defendant in the attachment shall within a year and a day then following come into Court and disprove and avoid ye debt recovered by ye plaintif against him, that then the plaintif shall restore to ye defendant the money by ye plaintif attached and condemned, or So much thereof as shall be Disproved Or else that they will do it for him.

And whereas, by a Law of this Province it is enacted that defendants shall be Summoned and a copie of the Complaint Delivered him or her, att his or her dwelling house to answer unto &c: Which Has Occasioned Disputes in some places; For accomodating wherof. *It is enacted*, That if a Copy of the Summons and Complaint be left att or putt Into the defendants dwelling house, or delivered to one of the family in case the defendant be absent, and proof thereof made by the Sheriff at the Return of the writt; It shall be deemed and adjudged as valid, as if the same wer personnallie served.*

Copy of summons left at dwelling house, deemed valid service.

*The part relating to attachments supplied by a law passed in the year 1700—See Bioren's Laws, vol. 1, page 8, Chapter 29.

The above ten Laws from page 94 to page 111 are a true transcript or duplicate of the Laws of ye said Province and territories made and past the twenty day of May 1699, now in force until his Majesties pleasure shall be further known, As they remain on the files in ye secretaries office of the said Province, examined and Compared therewith and found to agree with the same by mee

PAT. ROBINSON, *Secr'y.*

CERTIFICATE.

OFFICE OF THE SECRETARY OF THE COMMONWEALTH,
HARRISBURG, *January 20, 1879.*

I do hereby certify that the foregoing, as contained on the two hundred and ten last preceding pages, is a full, true, and correct copy of the original charter and laws of the Province of Pennsylvania, as compared with and corrected by the records of this office.

JOHN BLAIR LINN,
Secretary of the Commonwealth.

APPENDIX.

A,

COURT LAWS,

B,

HISTORICAL NOTES.

Charter Embellishment, (Scotland.)

A.

COMPILATION

OF THE

LAWS AND ORDINANCES

ESTABLISHING THE

SEVERAL COURTS OF JUDICATURE

OF THE

PROVINCE OF PENNSYLVANIA,

WITH AN INTRODUCTION,

BY

STAUGHTON GEORGE.

Lesser Seal of Province, (used by Supreme Court.)

INTRODUCTION.

If any apology is needed for the publication of the laws relative to the establishment of the several courts of justice of the Province of Pennsylvania, the fact that they relate to a question of so great importance as the administration of justice, and that the subject has been heretofore a sealed one, should be sufficient warrant for their publication at this time. Historians in attempting to throw light upon our early legal and judicial history, have failed in some cases to give the real facts, in others have been compelled to evade, or substitute surmise, simply for want of this material, which has been all the time in possession of the Commonwealth, but inaccessible to them.

A portion of the papers required for a consecutive compilation of the laws, has been so well guarded in the early record books, without index, or other notice of their presence, and among totally extraneous matter, that their existence was not known or suspected, until a careful study of the whole subject led to a persistent and long continued search, which was finally crowned with success, and the missing papers brought to light. We are thus enabled to present all the acts, ordinances, &c., which form a perfect chain from the earliest period; and future historians are put in possession of all that is requisite for determining the manner of practice, with all other facts relative to the administration of justice, during the several decades represented by them.

The history of the legislative proceedings incident to the passage of these acts has already been placed at the disposal of the public, through Franklin & Hall's "Votes and proceedings of the Assembly of Pennsylvania," and the Colonial Records, published by authority of the Commonwealth.

To a proper understanding of some things which have presented an appearance of confusion to writers upon matters relative to the administration of justice, &c., it may not be improper to briefly mention some facts in correction of errors, that have been made.

By Section 17, of his first frame of government, the Proprietary vested in the Governor and Council the erection of standing courts of justice, "for the good government of the said Province;" to the Council, the privilege of nominating yearly, a double number of judges, &c.; and to the Assembly, the privilege of nominating a double number of justices, sheriffs, &c., from which number so nominated, the Governor or his deputy was to make choice, and commission for each office the proper number to

serve for the ensuing year. These provisions were immediately put in practice, and all commissions issued were in the name of William Penn, as Proprietary, and signed by the Lieutenant Governor, for the time being. Judges were not commissioned by the Crown, as has been asserted. A large number of the commissions issued to judges of the Supreme Court, and justices of the county courts from 1700 down to the revolution, are on record in the Department of Internal Affairs. Many of the names in these commissions have been omitted in the lists of judges and justices which have been published from time to time. By an act passed in 1705, the offices of sheriff and coroner were made elective, and being considered as officers of the Crown, they were commissioned and required to enter bond in the name of the Queen. After the death of William Penn, in 1718, Governor Keith changed the style of commissions of judges, justices, &c., issuing them in the King's name.

Another matter which has presented a confused appearance, was the hearing of appeals, in both civil and criminal causes, before the Governor and Provincial Council.

With the laws in the body of this volume, to which reference will be made, and facts culled from the first volume of Colonial Records, we hope to be able to place the subject in position to be better understood.

William Penn, upon his arrival in 1682, adopted the laws of the Duke of York, which continued in force and effect, until replaced by the new code, enacted by the first Assembly held at Chester. The first mentioned laws provided that appeals and capital offences should be heard by the "grand assize;" the new code made no provision for the trial of capital offenses or the hearing of appeals; these defects were provided for the next year, by Chapter 69, (page 129, *ante*,) which prescribd the manner of procedure in criminal causes, &c., and Chapter 70, (page 129, *ante*,) that appeals from the county courts might be made to the Governor and Council. Chapters 117 and 118, (page 144, *ante*,) fixed the punishment for manslaughter and murder, respectively, but the county courts, already established, were not given jurisdiction in such trials, so that all causes other than those over which the county courts had direct jurisdiction, were tried by the Governor and Council, until the creation of the Provincial Court, in 1684. Even after that date, at times, appeals and other actions cognizable in that court, were tried before the Governor and Council, or President, (as the case may be,) for which there was, probably, ample excuse—the fact of the death of one of the judges first commissioned, and the articles of impeachment preferred against another, being sufficient to throw the administration of the first court into confusion. At another time the judges appointed refused to serve; and upon another occasion they refused to sign the judgment awarded by them. The fact that the law allowed appeals, &c., to be heard before the Council, may have led many to prefer entering their plaints before that body.

For many years the compensation awarded was totally inadequate to the

dignity of the court, and probably the judges found it more profitable to attend to their private affairs than to serve the public for honor only. Attention is also called to the fact that many cases heard by Council belonged to the admiralty practice, which was not within the jurisdiction of the Provincial Court; that many other cases brought to the notice of the Council, especially during the years 1685–6–7, directly after its establishment, were remanded to the proper courts to determine. Other of the judicial business, brought to notice of the Council, appertained to the practice of orphans' courts, for which no very definite provisions had been made at this early period. (See Chapter 77, 1683, page 133, *ante*, and Chapter 188, 1688, page 180, *ante*.) These, in connection with the fact that jealousy existed relative to the geographical apportionment of the appointments of judges, (of which complaint was made as early as 1687, and at that time was thought of so much importance that the Assembly called the attention of the Council to the subject,) may have led to a feeling of distrust of the court.

In time these appeals to Council diminished in number, and the effort to establish and firmly fix its foundation is evidenced in the acts of 1685, Chapter 182; (page 177, *ante*,) of 1690, Chapter 197, and of 1693, Chapter 3, (pages 184 and 225, *ante*,) in which its duties and jurisdictions are enlarged and amply defined. It was, however, not until after the passage of the law of 1701, that the Provincial, as well as the other courts, were firmly established, and their several duties and jurisdictions fully defined.

The Law of 1684, chapter 168, was prepared by a committee consisting of Thomas Holmes, William Clark, William Welch, and Thomas Lloyd.

In Council the 4th of April, 1685, William Clark was ordered to prepare a form for indictments and summons, but no reference is made by which we can determine who prepared the act relative to courts passed that year. Clark may have been the author. He was commissioned as judge of the Provincial court the following year. The credit for preparation of Chapter 197, 1690, cannot be awarded to any one person, or sub-committee, as the Council, contrary to former practice, "resolved the whole board into a committee for preparing bills for promulgation," so that credit must be given the whole body.

In 1693, the practice of preparing bills in Council, as required by charter, was completely changed, (see historical notes,) and all bills were prepared by the Assembly. In that house, on the 26th of May, a committee was appointed to prepare certain bills, also, "to alter and amend all such laws as they see convenient." David Lloyd, James Fox, Samuel Richardson, Thomas Pemberton, and Edward Blake were the members of that committee; and, as but one other committee to prepare bills was appointed, and the titles of the bills they were to prepare are distinctly mentioned it is but fair to presume that Chapter 3, of that year, "relative to appeals to the Provincial court," was prepared and reported by the above named committee.

Of the act for the establishment of courts of judicature, passed October 28, 1701, all that can be gathered from either the proceedings of Council or Assembly, as to whom credit is due for originating the bill, is as follows: On the 7th of October, "John Guest and Edward Shippen, two members of Council, brought into the house a bill for the establishing of courts," which bill was, on the following day, "unanimously rejected" by the Assembly. On the 16th of the same month, David Lloyd, (who was not a member of either house,) "brought in a bill proposed to be made into a law for regulating courts, &c., which was voted to be adopted after being amended." On the 18th, upon second reading of the bill, a committee consisting of Richard Hallowell and Isaac Norris was appointed "to draw up the said bill with amendments." On the 20th, the bill was read the third time, and having been messaged over, it was, on the 23d, returned from Council without objection.

This is sufficient evidence that David Lloyd was the author of the bill, allowing proper credit to the committee for any amendments which may have been made by it.

This law remained in force until repealed by the Queen's Council, February 7, 1705. (See the law on page 311, *post.*)

Its repeal left the administration of justice in a chaotic state, the province being without any *legal* court establishment until the passage of the act of 1710. In the meantime a controversy of extreme length and bitterness was entered upon between Governor Evans and the Council on the one part, and the Assembly on the other, relative to the enactment of a law to take the place of the one repealed, which covers many pages of the "votes of Assembly" and record of the proceedings of Council, in the Second volume of Colonial Records.

The first notable action relative to the passage of a new bill, was the appointment in the Assembly, on the the 23d of October, 1705, of a committee, consisting of David Lloyd, Caleb Pusey, Isaac Norris, Samuel Carpenter, Richard Hill, and John Swift, to "amend the laws excepted against by the Queen's authority."

On the 20th of December, the Speaker reported to the Assembly "that the Attorney General and city clerk had informed him that the Governor desired to see the bill of courts."

On the 7th of January, 1705–6, a member of Council presented the House a bill for regulating courts of judicature.

On the 8th of the same month, the Assembly resolved that no further proceedings be made therein this session.

On the 19th of September, 1706, a new Assembly having convened, the Governor recommended to its consideration the re-enacting of the law of courts, &c.

On the 20th of the same month, another bill for the regulation of courts, &c., was sent by the Governor and Council to the Assembly. "This bill was drawn up by some of the practitioners in the courts."

On the 21st, David Lloyd presented some heads he had drawn up, relating to the regulation of courts, *which were agreed to.*

On the 25th, the Governor notified the Assembly that he was not satisfied with the amendments, &c.

On the 19th of October, it was ordered, "that the Speaker, (David Lloyd,) be desired to draw up the bill for regulation of courts, according to resolves, and that he have liberty to make such necessary additions thereunto, as will be sufficient to render the powers of the respective jurisdictions intended by the bill to be established, full and complete."

Pending this discussion, the courts were twice adjourned by order of the Governor; but the wheels of justice were finally put in motion through the agency of an ordinance, issued by the Governor, on the 22d of February, 1706–7, which he claimed the power to issue, under a section of the King's Charter, which provides, that to prevent accidents and provide for emergencies that may occur, that the said William Penn, by his heirs and magistrates, or officers, may from "time to time," make and constitute ordinances, which shall be inviolably observed, under pains therein to be expressed. The said ordinances *not to extend in any sort to bind, charge, or take away the right or interest of any person or persons, for or in their life, members, freehold, goods, or chattels.* The Assembly vigorously protested against the legality of the ordinance, and endeavored to have it re-called. Their protest is too lengthy to produce here, and brief quotations could not convey the sense of the document without marring its parts. It may be found on page 350, Vol. II of Col. Rec.

No compromise could be effected, and the ordinance continued in force until the close of the administration of Governor Evans, in February, 1708. (See ordinance on page 319, *post.*) By proclamation, dated the 28th of the same month, Governor Gookin declared, that "all ordinances and commissions whatsoever," in force on the 1st day of February, were to be and remain in full force, power, and virtue, until his further pleasure should be known therein, and all magistrates, officers, &c., in whom any public trust was reposed, were commanded to diligently proceed in the discharge of their respective duties therein, for the safety, peace, and well being of the government.

By this proclamation, Evans' ordinance was continued in force; and without the proclamation the controversy was continued—a running fire being kept up for two years; although not quite so warm, in some respects, as that which raged during the administration of the former Governor, still, at times, quite rancorous. As there is a limit even to legislative war, some points conceded on both sides led to the adoption, in 1710, of an act establishing courts of judicature, which, with certain modifications, was the same as the bill proposed by the Assembly of 1705.

In the Assembly, on the 2d of November, 1710, a bill for establishing courts of judicature in this Province, prepared by a former Assembly,

was read, which, being very long, was left to the further consideration of the House.

On the 5th, the residue of the bill was read and debated, paragraph by paragraph.

On the 8th, the House resolved itself into a Committee of the Whole, to proceed upon the further consideration of the bill; and after some time spent therein, the Speaker resumed the chair, and the committee reported, &c.

On the 9th, a committee was appointed, consisting of Isaac Norris, Caleb Pusey, Jeremiah Langhorne, and Edward Farmer, to whom the bill was referred, "to be drawn up."

On the 17th, the bill, with amendments, was reported by the committee, and upon the question, Shall the bill, as amended, now pass? It was carried in the affirmative.

The bill became a law on the 28th day of February, 1710. (See the law on page 323, *post.*)

A legal writer of great ability, speaking of the early legislation, says: "Who ever the lawyers were, they seem to have been inclined to make a Pennsylvania system of jurisprudence, rather than to introduce the English." It was this same opinion which led Governor Evans, in his discussions with the Assembly, to assert, "*That their aim was to reverse the method of government according to our English Constitution, and establish one more resembling a republic, in its stead.*"

If such was the fact, in either case, should not the efforts redound to their credit, rather than dishonor? But the fact is, their efforts were directed to the establishment, not of a separate system, but to one comprehending the English, while adapted to the wants of the Province. The credit of this adaptation was principally due to the intelligence and perseverence of David Lloyd, who afterward, as chief justice of the Supreme Court, had the honor of administering justice under these laws, for the period of fourteen years.

The next act of importance was that passed in 1713, entitled an act for the establishment of orphans' courts, &c.

The bill was first introduced in the Assembly, on the 10th of the twelfth month, (February,) 1712. On the same day it passed first reading; upon the following day it reached second reading; and a motion was made, "that the power be vested in the justices of the respective county courts, and that David Lloyd be ordered to amend it." This was done, and the amended bill passed that House finally, on the 16th of the same month.

The Governor, on the 21st, informed the Assembly that the bill for orphans' courts was of too great importance to be hurried, and that he must take some time to consider it, that in compliance with the proprietor's instructions to himself, "in all difficult or doubtful points in the laws," he felt obliged to take Judge Mompeson's opinion upon it.

The chief justice returned the bill to the Governor on the 25th of the

first month, (March,) 1713, on the same day it was sent to the Assembly, with several proposed amendments, to these the house refused to accede. The Governor not considering the amendments essential, agreed to the passage of the bill, and it became a law on the 27th of the same month. (See the law on page 346, *post.*) An act for the limitation of actions became a law on the same day. (See the act on page 345, *post.*)

The law for the establishment of courts of judicature passed in 1710, continued in force until February 20, 1713, when it was repealed by the Queen's Council.

It was replaced by an ordinance issued by Governor Gookin, dated the 20th of July, 1714. This document was prepared by Robert Asheton, Esquire, by direction of the Governor and Council. (See the ordinance on page 351, *post.*)

As before, the assembly protested against the issuing of an ordinance, and requested that in its stead a simple "declaration or other public instrument" might be issued, directing the courts to be held at the usual times and places, continuing the pleas and process then depending until the succeeding courts, and to make all new process returnable accordingly, before which time they hoped to have the Solicitor General's opinion relative to the repeal.

To which the Governor answered, that if the reasons for the repeal of some of our laws are unhappily left behind, it does not follow that the current of justice should be stopped, as of necessity it must, if some provision be not made for inquest and evidence.

The result of this discussion, was a passive acquiescence on the part of the Assembly, and the ordinance remained in operation until supplied by the act of 1715. On the 13th of January, 1714–15, the Assembly proceeded to the consideration of the several laws repealed by her late majesty.

On the 20th, the repealed act was read in part. A number of changes were proposed, among others, that the powers of magistrates be specified in a bill "distinct by itself, and the practice in another, that matters of equity shall begin originally in the Provincial Court, that the clauses for general quarter sessions, and county courts of common pleas be put in separate bills," &c., &c.

On the 8th of February, the several bills relative to the establishment of courts were called up on second reading; the one relative to general quarter sessions was amended, by striking out "commissioners of oyer and terminer," and inserting, "judges of the Supreme Court."

On the 18th of the same month, the several bills passed third reading in the Assembly, and on the 28th of May, were finally approved by the Governor and became laws.

The titles of which were as follows:

An act for establishing the courts of general quarter sessions in this Province. (See page 356, *post.*)

An act for erecting a Supreme or Provincial Court of law and equity in this Province. (See page 359, *post.*)

An act for establishing the several courts of common pleas in this Province. (See page 362, *post.*)

An act for the better ascertaining the practice of the courts of judicature in this Province. (See page 364, *post.*)

These several acts remained in force until July 21, 1719, when they were repealed by the crown.

At the session of 1715, an act was passed directing appeals to Great Britain which became a law upon the same day as those above mentioned. It seems to have met a better fate than the others in not being disapproved. (See the law on page 355, *post.*)

In earlier times no certain rules were established by legislative enactment, relative to appeals to the courts of final resort in Great Britain. The first definite reference to the subject was in the commission of William and Mary to Governor Fletcher, wherein it was prescribed that if either party shall not rest satisfied with the judgment or sentence of the "Superior Court," that they may appeal to the Privy Council, provided the matter in difference exceed the real value and sum of three hundred pounds, security to be given by the appellant. We have no means of ascertaining whether these instructions were followed by Fletcher, or if followed, whether continued after the restoration of Penn. The law of 1701, for the establishment of courts, did provide for appeals to Great Britain, but no limit of money value was mentioned in it.

It is doubtful whether the act of 1715 met the requirements of the times, for in 1726, ten years after its passage, the King found occasion to complain of irregularity in the granting of appeals, not only in Pennsylvania, but other of the English colonies and issued instructions relative thereto. (See instructions on page 395, *post.*)

The next act worthy of notice was passed May 31, 1718, entitled An act for the advancement of justice and more certain administration thereof. (See page 371, *post.*)

This law met with a better reception than most of the others, being approved and confirmed in Council, May 26, 1719.

Its adoption opened a new era in the administration of penal justice, the rigor of the English penal law being fully established by it. This law continued in full force until the adoption of a revised penal code after the revolution.*

The repeal of the laws of 1715, relative to the jurisdictions of the several courts, left the Province in the same condition that it was in at the repeal of the act of 1701, and of the act of 1710.

At a meeting of the Council, held on the 9th of November, 1719, Governor Keith, after calling the attention of Council to the repeal of the several acts, "proposed to the board, to consider of the best method to pre-

*See notes in volume I, of Dallas's law, page 134.

vent the inconveniencies, that by a discontinuance of the courts and depending process may ensue to the country, which being fully considered and debated, it was the opinion of the board, that the Governor should issue new commissions to the justices of the several counties, &c., authorizing and requiring them to hold courts of common pleas on the same days on which they should have held them by the law lately repealed, and to take cognizance of all the causes depending in the last courts; as also commissions to the said justices to hold courts of quarter sessions, on the days upon which they should respectively have held them by the repealed law, proceeding therein according to the course of common law, and the law of this Province."

The commissions issued to the justices of the several counties were of like form, and of even date with that to the Chester county justices, which is herewith given. It bears date the 24th of November, 1719. (See commission on page 382, *post.*)

In Council, on the 22nd of March, 1720, similar action was taken relative to the sessions of the Supreme Court, the Chief Justice, David Lloyd, "at the Governor's desire, undertook to prepare a proper form of such commissions." A commission was issued, bearing date the 26th of March, 1720. It is also herewith given. (See page 385, *post.*)

This action, in accord with the recommendation of the Assembly, in their protest against the Gookin ordinance, caused the "current of justice" to continue until the passage of the act of 1722. It may be noted here that from the earliest period provision was made for the practice of equity, either in the county or Provincial courts, or both. The law of 1715, provided, that matters of equity should begin in the Provincial Court, then designated the Supreme Court of Law and Equity. It is unfortunate that we are not in possession of the reasons for the repeal of that law, which might throw some light on the subject, and equally unfortunate that the records of the earlier courts have not been preserved, as from these alone the evidence might be adduced to settle to a certainty the question whether equity was practiced to any considerable extent before the establishment of Governor Keith's court.

If equity was not practiced, then why provide for it in the several acts establishing courts?

Why should the Governor discover, just at that period, that it was necessary that a court with jurisdiction of that character should be established?

On the 3d of May, 1720, the Governor addressed a communication to the Assembly, in which he recites, that, having consulted gentlemen learned in the law, he is satisfied "that no representative body, in any of his Majesty's colonies, is invested with the power to erect such a court, or that the office of chancellor can be lawfully executed by any person whatsoever, except him, who, by virtue of the great seal of England, may be understood to act as the King's representative in the place."

On the following day, the Assembly considered the Governor's message,

and resolved, "that, considering the present circumstances of this Province, it is the opinion of this House, that, for the present, the Governor be desired to open and hold a court of equity for the Province, with the assistance of such council as he shall think fit, except such as have heard the same cause in an inferior court."

At a meeting of Council, held August 6, 1720, after reciting that the courts of law were being regularly held, and justice duly administered therein, by virtue of the several commissions issued by him, the Governor further said: "But there being a necessity also, that a court of equity or chancery should be held for the relief of those who suffer under the rigor of, or cannot obtain their right by the common course of the law, the establishment of which court of equity does not appear practicable by the same methods with those of the law, as being inconsistent with the nature of a chancery as it is practiced in all his Majesty's dominions, as well in Europe as America." After further consultation, on the same day, it was resolved that a court of chancery be opened; rules were adopted; and a proclamation was ordered to be issued, giving notice of the time and place for holding the said court.* The proclamation was published on the 10th of the same month. (See proclamation on page 386, *post.*)

The courts were continued by commissions as above mentioned until 1722. At a meeting of Council held on the 12th day of May, of that year, having under consideration a "bill for the trial of felonies," &c., it was generally observed that the constitution of the several courts of judicature within this province, would, in all respects, be more regularly and effectually established by ordinance, as is done in some of our neighboring governments, than by any particular commissions.

That the board thought a bill of the character under discussion could be prepared to much better advantage if the courts were established by law or ordinance, and the Governor was recommended to call the attention of the Assembly to the subject.

On the same day a message relative thereto was sent to the Assembly, but there is no record of any action having been taken upon it. It may be that the recommendation was a surprise, or it may have been understood and agreed upon in advance by the Governor and prominent men of the Assembly that the time had arrived to attempt the passage of another court bill; whatever the situation, whether the dread of another ordinance or the desire to take advantage of the opportunity offered, no time was lost in the preparation of a bill, for upon the 16th of the month, four days after receipt of the message, the Speaker, Jeremiah Langhorne, laid before the Assembly a bill entitled an act for the better establishing the several courts of judicature in this province." On the same day the bill, without being referred to any committee, was ordered to a second reading and committed. On the 17th it passed third reading; on the following day

* The journal of the proceedings of this court has been preserved, and may be found, printed in full, in "Rawle's Equity in Pennsylvania."

was messaged over to the Council. In that body several amendments were proposed, and the bill was referred to Richard Hill, Isaac Norris, James Logan, and the Attorney General, Andrew Hamilton, who were instructed to make observations and amendments thereupon and to report to the "board."

On the 19th, the bill, as amended, was returned to the Assembly, and after additional amendment was sent to the Governor.

No further mention is made of it in either House until the 22d, when it was finally approved and became a law. (See page 387, *post.*)

This was the first and only law relative to the "establishment of courts of judicature," that was not repealed by action of the Crown. It continued in full force and effect until the year 1727, when by action of the Provincial authorities, it was superseded by the act of that year. The principal cause of repeal was as follows: On the 23d of November, 1726, one Lawrence Lawrence, sent a petition to the Assembly, (of which body David Lloyd was Speaker,) setting forth that he was detained in jail, by virtue of a writ issued from the Supreme Court, at the instance of John Moore, who claimed that the said Lawrence was indebted to him in the sum of twenty thousand pounds. The petitioner denied being indebted to Moore in any sum whatsoever, and also questioned the power of the court to issue original process under the law constituting it. The petition further charged that the proceedings were instituted in order to prevent the petitioner from going on a voyage which he contemplated, and which, if not permitted to accomplish, would "be his ruin," and asked for such timely relief as to the wisdom of the Assembly should seem proper.

The communication was read and ordered to lie upon the table.

On the 24th, John Moore, Esquire, the King's collector, presented his memorial in answer to the several objections contained in the petition, and in vindication of his procedure in the Supreme Court, upon seizures, &c. This was disposed of the same as the petition.

The question relative to the petition and answer was for several days debated in committee of the whole, but nothing definite can be gathered from the proceedings until the final report of the committee was made on the 10th of December, which was as follows: John Wright, according to order, reported from the committee of the whole House, that they had "come to certain resolutions," which he read in place, and afterward delivered at the table, where they were again read, viz:

1. *Resolved*, That the law for establishing courts in this Province be amended.

2. *Resolved*, That no original process be issued out of the Supreme Court in civil causes. Agreed to "*nemine contradicente.*"

It was then ordered, that Francis Rawle, John Kearsey, Joseph Kirkbride, and Richard Hayes be appointed to draw up a bill for establishing courts of judicature in this Province, agreeable to the above resolves, to report at the next meeting of the Assembly.

The petition of Lawrence was again read, and the question disposed of by the passage of the following resolution:

Resolved, That this House, having taken the same under their consideration, and having already appointed a committee to bring in a bill for establishing courts in this Province, which may redound to the petitioner's relief, in the mean time refers him to the common course of law.

On the 31st of January, 1726–7, the committee reported, that owing to the death of one of their number, they had been unable to complete the bill. The final report was not made until the 15th day of August, and on the 17th, the bill had passed third reading. On the next day it was messaged over to the Governor and Council, when a clause was inserted to cover the instructions of the King, relative to appeals before referred to.

The bill, as amended, became a law on the 26th day of August, 1727, (see page 395, *post.*) It continued in full force until 1731, when it was repealed by the Crown.

In a communication from Governor Gordon to the Assembly, dated February 3d, 1730–1, among other matters, he urges the appointment of an agent to look after the interests of the Province at London. He says: I am led to press this more closely from some late endeavors that have been made to obtain a repeal of the law for establishing courts of judicature, passed since my accession to this government; and as the matter is still pending before the Lords of Trade, it becomes us to take all suitable measures to prevent this design.

The Governor received notice of the repeal November 11, 1731. This, with other business of importance, led to the call of a special session of the Assembly, which met on the 23d of the same month.

The Governor, in his opening address, called attention to the repeal, with which he was much displeased, and stated that it was obtained by the endeavors of some persons, on the pretense that the law was prejudicial to the interests of the King, and that he was in possession of letters to that effect. These must have been placed at the disposal of the Assembly, for, upon the following day, a communication was sent to the Governor, from which the following extract is taken: "We are extremely concerned that their Lordships of the Board of Trade were so ill-informed of the intentions of the Legislature of Pennsylvania, in passing the act of Assembly for establishing courts of judicature; or that it should be understood as proceeding from a want of duty to the King, or regard to the persons employed under him. The Governor is sensible the Legislature had no other view in the making that act, than to give an opportunity to all persons who may have to do with courts of justice here, to apply to a superior judicature for redress by way of appeal, or writ of error, if they conceived themselves aggrieved by the sentence of the court before whom judgment was given, which, by our Constitution, no person can have but by appeal to Great Britain, if the Supreme Court can hold

plea of causes originally commenced there. But upon reading the papers which the Governor has been pleased to communicate to us, touching the repeal of the said law, and the methods that have been taken to obtain it, we cannot help saying, that so much of the representation made to the King, as insinuates the partiality of our inferior courts of justice, or that the said act was gained by the undue influence of particular persons on the Governor and then General Assembly of this Province, is false and scandalous; and the author studied rather to recommend himself by such suggestions, than to do his Majesty any real service."

The question now arises, who caused the repeal of the act of 1727?

The probabilities are very strong, that it was accomplished through the agency of John Moore, collector of the King's customs, the same person who had caused the arrest of Lawrence; he was evidently not satisfied with the disposition of that case.

At a meeting of Council, held August 18, 1727, at which amendments to the bill were under consideration, he sent in a communication requesting to have a clause inserted, which provided that all actions, *qui tam* suits, informations and prosecutions whatsoever, wherein his Majesty, his heirs or successors, is or shall be in any way interested or concerned, shall and may be commenced, sued, or prosecuted originally in the Supreme Court of this Province, anything herein, or in any law, usage, or custom, to the contrary notwithstanding. This was referred to the Assembly, which body took no notice of it. The failure to have this clause incorporated into the act, in connection with the recitals in the communication of the Assembly, above quoted, with the disposal of the case of Moore *vs.* Lawrence, furnish sufficient indication, at least, of the causes instigating the repeal, if not the mover of it.

By the repeal of this act, the Province was not left, as upon former occasions, without a court establishment.

The repeal of the law of 1722, by legislative action, furnished an opportunity of providing a substitute for the repealed law, which was taken advantage of at an early day. On the 26th of the same month, a bill for reviving the act of 1722, was introduced in the Assembly, and became a law on the following day. (See page 404, *post.*)

This revived act continued in force until the revolution, being amended by supplementary acts on two different occasions. These are thought of sufficient importance to appear in this compilation. One of them was passed on the 29th of September, 1759. (See page 405, *post.*) The other on the 20th of May, 1767. (See page 407, *post.*)

After the revolution, other modifications, rendered necessary by the change in form of government, were made from time to time, until the adoption of the Constitution of 1790, when the law was rendered in operative*

If we have succeeded in presenting, in a plain and practical form, some

*Full notes upon this law may be found in the 1st volume of Dallas's Laws of Pennsylvania.

facts relative to our earlier judicial history, which may lead to a settlement of points heretofore disputed, or draw attention to facts not before noticed, then the object aimed at is attained; and future historians attempting an extended notice of the acts or practice of the pro-revolutionary courts, are placed in possession of the material to make the task much easier.

Seal of Gov. Denny, (used by Admiralty Court.)

AN ACT

For establishing Courts of Judicature in this Province and Counties annexed.

For the Better and more orderly establishment and Regulation of the Courts of Justice, within this Government: *Be it Enacted by the Proprietary and Governor, by and with the Advice and Consent of the Freemen of this Province and Territories in General Assembly mett at Philadelphia by the authority of the same:* That there shall be Holden and Kept a County Court, or Sessions four times in every year, in each County of this province and Territories. That is to say; in the County of Philadelphia, to Begin on the Third day of the week called Tuesday, in the first week of the months called March, June, September and December. In the County of Bucks, to begin on the fourth day, called Wednesday, in the second week of every of the said Months. In the County of Chester, at the Town of Chester, to Begin on the third Day of the Last week, in the months called February, May, August and November. In the County of New Castle, at the Town of New-Castle, to Begin on the third day, called Tuesday, in the Months called May, August, November and February. In the County of Kent, to begin on the second third day, called Tuesday, in the same months. In the County of Sussex, at the Town of Lewis, to Begin on the first third Day, or Tuesday, in the same months, called May, August, November and February, And that there shall be a Competent number of Justices in every of the said Counties, appointed and authorized by the Governor or his Lieutenant, for the time being, by commission, under the Broad seal of the province, to Hold the said County Courts, or sessions; Three of which Justices, in Each County, shall be a Quorum, who are hereby Impowered to Deliver the Goales, award process, and Hold all manner of please of the Crown, or Criminall Causes, in the Respective Counties wherein they shall be comissionated, (excepting Treason, Murder, Manslaughter, Rapes, Sodomy, Buggery, Burglary and burning of houses, which the provinciall Judges hereafter mention'd, are hereby authorized to hear and Determine;) and shall award process, call speciall courts hold please, and hear and Determine all actions, suits and causes, civill, personall, Reall and Mixt, observing as near as may be, Respecting the Infancy of this Government and capacities of the people, the methods and practice of the Kings court of common pleas in England, having regard to the Regular process and proceedings of the former county courts, always keeping to Brevity, plainess and verity, in all Declarations and pleas, and avoiding all Fictions and Colour in pleadings.

County courts shall be held four times a year, in each county.

A competent number of justices shall be authorized by commission to hold said courts.

Three a quorum.

Jurisdiction in civil & criminal causes,

Capital offences excepted.

Special courts may be called.

Methods of common pleas in England to be observed.

Maritime affairs not cognizable by the Admiralty, shall be heard & determined by the county courts.

And as for such causes that may arise Between Merchants and seamen, which cannot be Tyed to formality of pleadings, and proceedings, Requicite at comon law, it shall and may be lawfull, to and for the said Justices within their Respect, ive jurisdictions, as often as there may be occasion, to hear-Determine, and Decree, in a Brief and Summary way, all the said causes between Merchants and seamen, which are by the laws and usage of the kingdom of England, not within the Cognizance and proper jurisdiction of the Admirallty; and for that purpose, the said justices shall cause to come before them twelve Indifferent Merchants, Masters of Vessells, or Ship carpenters, as the case may require, and for want of such, Then so many lawfull men of the neighbourhood as may make up Twelve, who are hereby Impowered, upon their solemn attestations to be given them by the court, to hear, examine and make Report (according to the best of their understandings) of the matter to the justices, who shall proceed to give Judgement or sentence therein, accordingly, and to award judiciall process, or Executions thereon as upon Judgments at Com'on law.

County courts shall hear and decree causes in equity.

And further that the said justices, in the Respective county courts, shall have full power and are hereby Impowered and authorized to hear and decree, all such matters and causes of equity as shall come before them, in the said courts. Wherein the proceedings shall be by Bill and answer, with such other pleadings as are Necessary in chancery courts, and propper in these parts, with power also, for the said justices to force obedience to their Decree in Equity, by Imprisonment, or Sequestration of Lands, as the case may Require. *Provided always;* That if any person or persons shall find themselves grieved with any Decree, or sentence, made or given, by the said justices, either in equity or upon their sum-

Appeals shall be made to the provincial court.

'ary proceedings, aforesaid, It shall and may be lawfull to and for him or them soe grieved, forthwith to appeal or have Recourse to the judges of the provinciall court, to set forth

Manner of entry and prosecution of appeals.

his or their case by petition, Bill or plaint, so as he, or they, so appealing, first pay down the court charges, and either satisfie the decree or sentence so given, or deposit with the justices the sum awarded, or Give sufficient security to prosecute the said appeall; and to pay all costs, and Damages, that shall be awarded, Against him, or them, and then Albeit, the party appealing be imprison'd upon that decree or sentence, he shall be enlarged, and that such appeals shall supersede all further process in the county court, upon the decres or sentence appealed from, till the same be heard and determined in the provinciall court.

Justices of county courts shall sit as justices of the peace.

And Morcover that the said justices shall have power, and are hereby Impowered and authorized, Respectively to Doe and execute, to all things relateing to the Duty and Office of justices of the peace, according to the laws of this Government; with power to hold and keep privett sessions as often as they see occasion.

Five provincial judges shall be appointed.

And be it further enacted by the authority aforesaid, That there shall be five provinciall Judges, appointed by the Governour or his Lieutenant for the time being, which Judges,

or any three of them shall be a provinciall court, and sitt twice every year at the town of Philadelphia, on the four and twentieth day of the seventh month, and the tenth day of the second month; and at least two of the five, every fall and spring yearly shall goe their circuit into every of the said counties, and there hold a provincial Court, on the twenty-eighth day of the seventh month, and the fourteenth day of second month, in the County of Bucks; and on the second day of the eighth month, and on the eighteenth day of the second month, at Chester; and on the fifth day of the eighth month, and the one and twentieth day of the second month, at New-Castle; and on the ninth day of the eighth month, and twenty fifth day of the second month, in the County of Kent; and on the thirteenth day of the eighth month, and twenty ninth day of the second month, at Lewis, in the County of Sussex; when, where, and as often as there shall be occasion of which occasion, notice shall be given by the Respective Clarks where any appeals are made and Granted, as aforesaid, under the County seal, directed to the Governour for the time being, by the first opportunity after such appeals are Granted, of which the Governour is to give Notice to the judges Respectively; and that the said Judges in the said Respective provinciall courts, shall have full power and authority as formerly, to hear and determine all Treasons, Murders, Manslaughter, Rapes, Sodomy, Buggary, Burglary and Burning of Houses; and are hereby impowered and authorized, to hear and decree all such matters and causes as by appeall from the Respective county courts shall come before them, as aforesaid, and thereupon, to Revoake make voyd, alter or confirm such decrees or sentences, acts or proceedings, of the said county courts relating thereto, and to make such Decrees, and take such order therein, as shall be agreeable to equity and Justice; and that it shall and may be Lawfull to and for the Judges who make any decrees by virtue of this act, to compell and order the Execution thereof by Imprisonment of Bodyes, or sequestration of any of the Lands, of such who upon sight or due notice of such decree, or upon service of the Judges decretall order, or Judiciall process, duely proved before one or more of the Judges, shall Refuse, or Neglect to comply with or perform the same.

Three judges a quorum to hold a provincial court at Philadelphia.

Two shall travel the circuit and hold court in each county.

Appeals, shall be directed to the governor, who shall notify the judges.

Jurisdiction of provincial courts.

Decrees and judgments, how enforced.

And it is further enacted, That if any person or persons find they have just cause to move in arrest of Judgement, they may doe soe after verdict, and before Judgement, But if they neglect their motion and Judgement be Entred, Then if they intend to avoyd such Judgement, They may have Recourse to the Governour for the time being, who without examination of the matter is to grant the party grieved, writt, or writts of Error, under the lesser seal of this province,— Commanding the Justices of the County courts where such Judgement or Judgements are given, to cause the Record of the said Judgement and proceedings, to be brought before the judges at the next provinciall court in course, And for writing sealing and Granting of every such writ of Error, The party shall pay to the Secretary six shillings, and noe more; which writt, or writts, so obtained, shall be brought

Motions for arrest of judgment when to be made.

Governors shall grant writs of error, which shall be heard by the next provincial court.

Writ to be presented to one or more justices of the court where judgment was entered.

before one or more of the Justices of the county courts where such Judgement was Entred, together with the particular cause or causes of error assigned in writing; and if it shall appear to the said Justice or Justices, that those Errors so assigned, are errors in law, (which is the fault of the justices) and not errors in process, Defaults, or Misprissions of clarks, or any other defect, error or insufficiency, in the process or pleadings, whereto the plaintiff in the writt of Error might have Demured or pleaded, in abatement, in the county court, nor want of form in any writt, Return, bill, plaint, Declaration, pleadings, verdict or proceedings, nor any other Defect of the like Nature, Mentioned and provided for in the severall acts of parliament, called Statutes of Jeofailes, which shall be Redressed, corrected, and amended, by the Justices of the Respective county courts aforesaid, without any writt of error, That then, the said Justice or Justices, before whom the said writt or writts, and cause or causes, of error, be brought as aforesaid, shall allow thereof, *Provided*, that the party in whose name the writt of error is Brought, with one or more sufficient sureties, (such as the said justice or justices doe approve of) shall first be bound to the party for whome such judgement is given, by Recognizance in double the sume adjudged to be recovered by the said former judgement, conditioned that the plaintiff in the writt of Error hath good cause of error, and shall follow the same writt with Effect, and if the Judgement be affirmed in the said writt of error, or that the plaintiff or plaintiffs therein suffer a discontinuance or be Nonsuit, then the said plaintiff or plaintiffs in the said writt of error shall pay all the debts, damages and costs, adjudged upon the former judgement, and all costs and damages that shall be awarded for delaying Execution; whereunto the justice before whom such Recognizance is given, shall subscribe his hand, and then such justice, or justices, shall order the execution to be stayed, if not granted, and to be superceded if granted, and not executed, as the case may Require.

If errors in law, and not clerical errors, or defects in pleas process or pleading, the writ shall be granted.

If security be entered to prosecute the appeal, and for the payment of costs and damages, then execution shall be stayed.

And it is further enacted, That the Governour for the Time being shall grant the said writts of error as also writts of *habeas corpus*, and all other Remediall writts without delay.

The governor shall grant writs of error, *habeas corpus*, &c., without delay.

And it is further enacted, That the said Judges of the provinciall courts or any two of them, shall in the Respective courts where they are concerned from time to time, have power, and are hereby Impowered and authorized to hear and examine all such errors in Law, as shall be so as aforesaid assigned or found, in, or upon and such judgement, and thereupon to Reverse, or affirm, the said judgement as the Law shall Require. And after such judgement Reversed or affirmed, the said Record shall be Remanded to the court from whence it was, so as aforesaid Removed. That such further proceeding may be thereupon, as well for execution or otherwise, as appertain, according to direction of the judges.

Any two of the provincial judges shall hear and determine the said writs, &c.

Their decision with the record to be returned to the court from whence removed.

Provided allways, That such Reversall, or affirmation, of any such former judgement, or of the above said decrees, or sentences, shall not be so finall but that the party Grieved

Final appeal may be made to the King.

therewith may appeale to the King, so that such appellant depositt the sume or sum's recoverd or decreed, against him, or Become bound with one or more sufficient sureties to the party for whom such judgement or sentence is given, by recognizance, in double the sum adjudged to be recovered by the sentence, decree, or judgement of the said provinciall courts; with condition that the person or persons appealing, shall and will, within twelve months, next after, prosecute his, or their appeal in England, with effect; and if the judgement or decree be affirmed there, or that the appellant fails in his prosecution of his said appeale within the time aforesaid, then the appellant, or party in whose name the appeale in made shall pay all the debts, damages and costs, adjudged upon the former judgement, sentence or decree, and all costs, and damages as shall be awarded for the delaying execution, or they the suretyes shall doe the same for him; whereunto the judges before whom the Recognizance is given, shall subscribe their hands and then execution shall stay.

Bond and conditions.

And it is further Enacted, That if any person, or persons, obtain Execution upon any judgement or sentence which shall afterwards be Reversed for error in Manner aforesaid, the judges who Reverse the same, shall issue forth their writt or writts to the sheriff or officer that served such execution, commanding him to Restore to the party the lands, Goods, or Chattles, so Taken in Execution, as also to Inquire of the Damages sustained by Reason of such Taking. And for the better Executing of the powers and jurisdictions hereby granted, It shall, and may be lawfull, to and for the said Judges and Justices, to make and publish all and every such Reasonable Rules and Orders, as may be fitt and Necessary to Regulate the officers, and ascertain the practice of the Respective courts they Belong to.—*Provided* always, That no Judges, Justices, or other persons, shall by any Means, or under any pretence whatsoever, Make, promote, Introduce, or suffer, any Rule, order, or practice, in any of the said courts; That shall Exact greater fees than what are, or shall be allowed, by the Generall Assembly of this Government, or which Debarr or Render any person or persons who for conscience sake, shall scruple to take an Oath in any case, uncapable to serve, officiate, or act in any office, Duty, or service, whatsoever in or Belonging to the said Respective courts.

Goods, &c., held for execution shall be restored on reversal of judgment.

Each court shall make its own rules.

Provided also, that where the said assembly has not made Due provision for any fee, or fees, for any matter or thing, to be acted, or done by the officers of the Respective courts, Then and in such case the Judge or Justices, of the said Courts, shall and may from time to time (untill the assembly shall provide for the same) make, order and appoint all such Reasonable fees, as the Business or matter shall Require and Deserve.

Fees, &c., not provided for by law shall be fixed by the courts.

Provided also, that nothing herein containid shall be Deemed or Taken to Discontinue or avoyd, any action, suit or process, now or hereafter Depending, in any court of this Government, or to vacate or anull, any Judgment, Record, Judiciall process, or proceedings, heretofore Entered, Trans-

Pleas, process, &c., pending shall not be discontinued by this act.

acted, or Done, in any of the courts of this Government, contrary to the methods hereby prescribed.

Forms of writs, &c.

And be it further enacted, That the forms of all sumons, arrests and attachments, heretofore prescribed and now used, shall be observed for the future; and that all writts of execution, of sheriff, or other officer who is to serve the same, thus: viz^t; To A. B. Sheriff of the county of St. . . or to A. B. coroner of the county of . . . Greeting St. These are by the King's authority to Require thee, that of the Lands and Tenements goods & chattels of C. D. in thy Baliwick, thou cause to be levied (if it be in Debt) as well a Certain Debt of . . . which E. F. in the county court held at in the said county recovered against him, also . . . Costs of suit, and have thou that money before the justices at the next county court, to be held at . aforesaid on the . . day of the . . month next, to Render to the said E. F. for his Debt and costs aforesaid, and have thou then there, this writt, Given under my hand and seal of the said county the . . . day of the . . . month Anno Domini . . (signed by one of the justices,) And so in other actions changing what is to be changed; and that the writts of Restitution above provided for shall be Directed as above, and then it shall Recite the judgement that is Reversed, and Conclude thus, viz^t; as by inspection into the Record and process aforesaid thereupon, which before us for cause of error in the same to be corrected, was caused to be brought to us appears of Record, which said Record and process being seen and by us Diligently examined and fully understood, We, for Divers errors in the said judgment and proceedings aforesaid, have revoked and annull'd, and we have further considered that the said J. D. to all things which by occasion of the judgement aforesaid hath lost may be Restored, and now on the behalf of the said J. D. we are given to understand that the said Incert here the sum levied by execution, by Reason of the judgment aforesaid formerly Rendered were levyed, and to the said C. D. Delivered, Therefore we comand thee That if it be so, Then without Delay thou cause the said A. B. to have full Restitution of the said the sum . if the same to the said A. B thou can cause to be Delivered, and as this our precept shall be executed, Thou shall make known to us at the next provinciall court to be held here the . . . day of the . . . month next with this writt. Given under our hands and seals the . . . day of the . . . month Anno Domini . signed by the judges, and if the sheriff Returns That he cannot cause Restitution to be made, Then there shall a Writt be awarded, comanding the sheriff to take the said C. D. and him safely keep, so that the sheriff have his Body before the judges to Restore the said A. B. the said sum, with such Damages and costs as the court shall assess.

This act shall not be construed so as to abridge

Provided always, that this act, nor anything therein, or in any other Act, Law or Ordinance, in this Province or Territories contained, shall extend or Be construed to Extend to the Annulling or Abridging of any proprietary, or signiory court or any other court or courts, Jurisdiction, or Jurisdic-

tions, privilidge, or privilidges, Granted appointed or constituted, or to be Granted appointed or constituted by William Penn, proprietary of this Province and Territories, his heirs and assigns, by vertue of any powers for that purpose to him and Them granted by any Letters Patent, or other authority, from or under the the King of England.

the power of the proprietary in erecting seigniory courts. &c.

And for the better establishment and Regulation of the Orphan's courts in this Government, *It is hereby Enacted*, That the Justices of the Respective County Courts, or a Quorum of them, calling to their assistance the Register Generall or his Deputy for the Time being, in Each county of this Province and Territories, shall have full power and are hereby Impowered, to hold and keep the said Orphans courts, after the business of the county court in Spring and Fall is over, or as often as they shall see occasion in the same places where the respective county courts are held from time to time; with full power to award process, and cause to come before them all and every such person and persons as are or shall be Intrusted with, or any ways accountable for, any Lands, Tenements, goods, chattles, or Estate, belonging or which shall belong, to any Orphan or persons under age, Either as Guardians, Tutors, Trustees, Executors, or administrators, and cause them to make and Exhibit within a Reasonable Time, True and perfect Inventories and accounts of the said Estates; And to Require and Take Bonds and security of such Guardians, Trustees Tutors, Executors and Administrators, for the Legacies, portions, shares and Dividends of Estates, Reall and personall, belonging to orphans or Minors, as occasion shall Require. With power also to make Equall Distribution of the surplusage of the said Estates, as to justice and Equity shall appertain; having Due Regard to the Directions and Bequests, of all Last wills and Testaments, in ordering such Distributions, as also to the Laws of this Government, from time to time. With power also to admitt orphans or Minors, when and as often as there may be occasion, to make choice of Guardians, or Tutors, and to appoint Guardians, next friends or Tutors over such, as the said court judge two young or uncapable according to the Rules of the comon Law, to make choice themselves: And to order and Direct the Binding and putting out of orphans or Minors, apprentices to Trades, husbandary, or other Imployments, as shall be thought fitt. And that all Guardians, Trustees Admy's or Tutors which shall be appointed by the Respective orphans courts, shall be admitted and Received, without further admittance to prosecute and Defend all actions and suits Relating to their pupills, orphans, or Minors, as the case may require, in any court or courts of this Province and counties annexed. *And it is further Enacted;* that if any person or persons being Duely Sumoned ten days before the day to be appointed for his or their appearance in the Respective orphans court, to which the sumons is Returnable, shall Refuse or Neglect, to appear according to sumons, or if when they appear, Do Refuse or Delay, to Become Bound to bring in their Inventories or Render accounts as aforesaid, Then it shall and may be Law-

Orphans' courts shall be held by the justices of the county courts twice a year.

Guardians, &c., required to give security for property of orphans and minors in their possession.

Distribution of estates.

Appointment of guardians and next friends.

Indenturing of orphans, minors, and apprennices.

Guardians, &c., to sue and be sued.

Failure to obey summons, how punished.

full, for the Justices of the Respective orphans courts to Issue forth their Warrants for arresting and comitting the person or persons so Refusing, or Neglecting, to the county goal, where he, or they are or can be found, there to Remain untill they comply with the courts order in that Behalfe.

Trustees complying with the provisions of this act shall not be required to file their accounts, &c., in the Register General's office.

Provided always that those who Bring Inventories, give Bond and make accounts in the orphans courts, pursuant to this act, shall not be obliged to give Bond, Exhibitt Inventories or accounts, for the same things or estate, to the Register Generalls office or else where, But that all persons having the power of probate of Wills, and granting administrations in this Government, shall cause all Inventories and accounts as shall be brought to them, relateing to orphans or Minors estates, into the Respective Orphans Courts as aforesaid, to be filed and kept there, and shall receive and take the fees due for the same, as if they were to be filed, entered, coppied and Transacted in the Register Generalls Office.

How trustees are to be discharged from their trusts.

And it is further enacted, That if any person or persons who shall be soe as aforesaid admitted or appointed Guardians, or Tutors to orphans, or Miners, by any of the said Orphans Courts, shall receive and Give Discharges for any sums of Money, Debts, Rents or Dues, belonging to such orphan or pupill for whom they are intrusted, such Discharges or Receipts shall be Binding and conclusive to and upon the Orphan when he attains his full age, and shall be most effectuall in law to discharge the person or persons that Takes the same; and when any orphan is of full age and his Guardian or Tutor hath Rendered his account to the Orphans court, pursuant to the Direction of this act, and paid the orphan his full Due according to the order of the Orphans court; That then the orphan shall acknowledge satisfaction in the said court. But in case the orphan Refuse so to do, Then the orphans court shall certifie how the Guardian has accounted and paid, which shall be a sufficient discharge to the Guardian, Tutor or Trustee, Executor or Administrator who shall so account, and pay, and thereupon all bonds entered into or given to the court by the person or persons so discharged, shall be delivered up to be cancelled and all recognizance so entered into shall be crossed and Discharged.

Reasonable court fees to be allowed.

And That all officers concern'd in carrying on the affairs of the orphans court, shall be allowed such reasonable fees for what they doe therein, as the justices of the said respective courts shall see cause to order, having due regard to the poverty of the orphans and Just demerit of what shall of necessity be done in the premises, by virtue of these presents.

All former laws relative to courts repealed.

And it is further enacted by the authority aforesaid, That all the laws formerly made and now in force, concerning the erecting, regulation and jurisdiction of county courts, provinciall courts, or orphans courts, shall from and after the publication of the laws now made for the establishment and regulation of the said courts, be repealed and are hereby repealed, annull'd, and made voyd, to all intents and purposes. *And be it further enacted, by the authority aforesaid*, That the

sheriff of every respective county shall meet and attend the Judges into and out of their respective Baliwicks; which said judges shall be allowed out of the respective county rates, during their sitting and travelling in That service, Twenty shillings each, for every day which shall be in lieu of all other charges and provision.

Sheriffs to attend the judges and pay their expenses.

Passed October 28, 1701.
Recorded Law Book A., Vol. I. 110.
Repealed in Council February 7, 1705.

"ORDINANCE FOR ESTABLISHING OF COURTS."

Whereas the Queens most Excellent Majesty by her Order in Council held at St. James on the seventh day of ffebruary in the year one thousand seven hundred & five was pleased to Repeal Declare to be utterly void severall Laws formerly enacted in this Government amongst others one certain Law Intituled an act for Establishing Courts of Judicature in this Province & upon the publication of which Order all the sev. erall courts that were founded upon the sd. Act become Discontinued, & thereupon an Entire failure in the administration of Justice in this Province has Ensued. And Whereas the present house of Representatives of the sd province having undertaken to provide another Act for Reviving & Establishing the s^{d} Courts, have not yett thought ffitt to agree to such a Bill for that purpose as in the Just Discharge of the Trust Reposed in me by the Queens Majesty & the proprietary, I coud by any means Assent to, By reason of which her Majesty's subjects here have been long Deprived of the Common Benefitt of a Publick administration of Justice by courts of Judicature for Remedy whereof, I have after a long Delay found myself obliged by virtue of the Royal Letter's patents of King Charles the Second (Granting unto the Proprietary & his heirs & to his other Deputies & Lieutenants (in the following words) full power & authority to appoint any Judges & Justices Magistrates & Officers Whatsoever for What causes Soever and to do all every other thing & things which unto the Compleat establishment of Justice unto Courts & Tribunals forms of Judicature (and manner of proceedings do belong, Altho' in these presents Express mention be not made there of &c. To Restore the s^{d} Courts of Judicature, and for the Generall Benefit & advantage of her Majesties Subjects therein, to open the Currant of Public Justice again. (& accordingly by virtue of the powers Aforesd. I have by the advice of the Councill thought fitt to appoint & Establish & do by these presents ordaine & Declare to be appointed & Established for the publick Administration of Justice in the sd. Province, the several Courts & Judicatories hereinafter following: That is to say, That there shall be Holden in every County of this Province, that is to say at Philadelphia & kept a court of Record, Twice in every year for the

A supreme court shall be held twice a

year in each county.

County and City of Philadelphia, on the Tenth day of April & the four and twentieth day of September; At Bristol for the County of Bucks, on the fourteenth day of Aprill & the eighth & twentieth day of September; & at Chester for the County of Chester the eighteenth day of Aprill & Second day of October; Which s[d] Court shall be called & stiled the

Three judges shall be commissioned, one to be styled chief justice.

Supream or Provincial Court of Pensilvania. And there shall be three psons of known Integrity & Ability appointed & Commissionated by the Governour, or his Lievtenant from time to time, by severall Distinct patents or Comissions, under the Great Seal of this province, to be Judges of the s[d] Court, one of whom shall be Distinguished in his Comission by the name of Chief Justice. Which sd. judges or any

Jurisdictions.

one of them shall have full power to hold the said Supream Courts, & therein to hear and Determine all Pleas, plaints & causes which shall be Removed or brought there from the Court of *General Quarter Sessions* of the Peace, or County Court of Comon Pleas, or from the sessions or Court of Records, held for the City of Philadelphia, or from any other Court or Courts of Record within the s[d] Respective Countys, by Writs of Habeas Corpus, certiorari, Writts of Error, prohibitions, Injunctions, Audita, Querela, or any other Remedial Writt, or Writts, of what Nature or kind Soever. And to examine & to Correct all & all Manner of Errories of the Justices & Magistrates of this Province, in their Judgements, process, proceedings, as well in All Pleas of the Crown, asin All Pleas. Real, personall & mixt, & thereupon to Reverse or affirm the s[d] Judgements, as the Law do h or shall Direct.

How writs shall issue and bear test.

Also to examine correct & punish the Contempts, Omissions,— favours Corruptions & Defaults, of all Justices of the Peace, Sheriffs, Coroners, Clerks and other Officers, within the s[d] Respective Countys, & Generally shall minister Comon Justice to all persons, concerning all & singular the premises according to Law, as fully & amply to all Intents & purposes whatsoever as the Justices of the Court of Queens Bench, Comon Pleas & Exchequer, at Westminster, may or can do. All which said Writs and every of them shall be granted of course & shall Issue forth of the office of the Clerk or Prothonotary of the s[d] Supream Court, & shall be made in the name & stile of the Queen, her Heirs & Successors, & bear Test in the name of the s[d] Cheif Justice for the time being, & shall be sealed with the Provincial seal or seal of the s[d] province.

Court of equity.

And I do further ordain by the authority afore[sd] That there shall be a Court of Equity held by the Judges of the s[d] Respective Supream or Provincial Courts, in every county of this province, which s[d] Judges or any of them within the Limits of their Comissions shall have full power & are hereby Impowered & authorized to hear and Decree, all such matters of Equity as by Appeals from the Respective Inferior Courts, shall come before them, & there upon to revoke, make void, alter or confirm, such Decrees and Sentences, Acts or proceedings, of the s[d] Inferior Courts relating thereto, & to make such Decrees & take such Orders therein, as shall be agreeable to Equity & Justice, with full power by Legall & due process to force Obedience to their Decrees or Judge-

ments. *And I do further Ordain* by the authority afore^{sd}, That there shall be a competent number of Justices in every of the s^{d} Countys, Nominated, Appointed, Authorized by the Governour, or Leivetenant Governour, for the time being, by Comission under the Broad Seal of this province, which said Justices or any three of them, shall & may hold the s^{d} Generall Sessions of the Peace & Goal Delivery. And Each of them shall keep or cause be kept the Peace of our s^{d} Lady the Queen her Heirs and Successors, And all Acts & Statutes made & to be made for the Conservation of the Peace, & for the Quiet Rule & Government in the Respective Countys for which they shall be so comissionated, according as those Acts and Statutes do or shall Direct: And to Chastize & Punish, all persons offending against those Acts & Statutes, with full power & Authority to & for the s^{d} Justices to Award Process, bind to the peace, & good Behaviour, & to Hear, Try and Determine, all & all manner of matters, Cuases & things whatsoever, as near as Conveniently may be to the Laws of England, & according to the Laws & usages of this Province, with full Powers to hold Speciall & Private Sessions, when & as often as Occasion shall require as any Justice or Justices of the Peace in England, in & out of their Sessions, may, or can do, which s^{d} Generall Quarter Sessions of the Peace in the Respective Countys of this Province, shall begin on the Tuesday on the same week in which the Respective County Courts of Comon Pleas hereafter mentioned are appointed to be held. *And I do further ordain* by the Authority afores^{d}, That the Justices of the s^{d} Courts of Generall Quarter Sessions of the Peace, in the Respective Countys for which they are comissionated, as afores^{d}, shall hold & keep a Court of Record, in every County which shall be called & stiled the County Court of Comon Pleas & shall be holden four times in every year, at the places where the s^{d} Quarter Sessions of the peace shall be respectively kept as afores^{d}: That is to say, at Philadelphia, for the County and City of Philadelphia, the first Thursday in the months of March, June, September & December; at Bristol, for the County of Bucks, the Second Wednesday in every of the afores^{d} months; At Chester, the last Wednesday in the months of February, May, August & November; which s^{d} Justices or any three of them, shall hold Pleas of Assize, Scire Facias, Replevins, and hear and determine all & all manner of Pleas, Actions, Suits & Causes, Civil, Personall, Real & Mixt, as near as conveniently may be the course and practice of the Queens Court of Comon Pleas in England, and according to the Laws and Constitutions of this province, from time to time, having due regard to the Regular Process and Proceedings of former county courts, allways keeping, (as near as may be,) to Brevity, plainness & verity, in all Declarations and Pleas. And that all Writts & Process upon the Pleas, Plaints & actions aforesaid, (shall as heretofore issue out of the offce of the Clerk or Prothonotary of the said Respective Countys, under the respective County seals, into whose office all Returns shall be made. *And I do further* ordain by

Justices shall hold courts of quarter sessions.

Courts of common pleas.

Return days.

the authority afores^{d}, That any one or more of the said Justices, in every county of this Province, as they shall see occasions, may sitt once in every six weeks at the place where the sd Courts of Comon Pleas shall be usally held, to the end only that the originall Writts & process may be made Returnable there, & Rules for Pleas, Replications & other pleadings, may be there given & Issues joyn'd, & other preparations made for expediting the Tryalls of Causes, Depending in the sd County Courts of Comon Pleas. *And I do further* ordain by the authority afores^{d}, That there shall be a Court of Equity held by the Justices of the s^{d} Respective County Courts of Comon Pleas, four times a year at the Respective places, & near the s^{d} times as the s^{d} Courts of Comon Pleas, are held in every county of this province, and that the Prothonotary of the Comon Pleas, shall be the Register of the s^{d} Court of Equity in every County. Which said Justices, or any three of them within the limits of their comissions, shall have full power & are hereby Impowered & Authorized, to hear & Decree all such matters & Causes of Equity do as shall come before them in the s^{d} Courts, where the Proceedings shall be as heretofore by Bill & answer, with such other pleadings as are necessary in Chancery Courts, proper in these parts, with Power also, for the s^{d} Justices of the respective Courts of Equity, to Issue forth all manner of Subpenas, & all other process do, as may be needfull to oblige & force the Defendants to answer suites there, as Also to award Comissions for taking Answers & Examining Witnesses, & to Grant Injunctions for staying suites in law, & stopping wasts as there may be occasion, observing as near as may be the practice and proceedings of the High Court of Chancery in England; with power also to make Orders & Award all manner of process & do all other things necessary for bringing Causes to hearing & to force obedience to their Decrees in Equity, as the laws & practice in such cases doth or shall Direct, & Admitt of Bills of Reviour as the case may require. *And for* the better Execution of the powers & Jurisdiction hereby Erected or Intended, It may be Law full to & for the s^{d} Judges & Justices of the s^{d} Respective Courts to make & publish all & Every such Reasonable Rules & Orders, as may be fitt & necessary to Regulate the Officers, & ascertain the Practice of the Courts they belong to. *And I do further* ordain that speciall Comissions of Oyer & Terminer & Goal Delivery may be Granted unto any the Respective County's of this Province, for the hearing, trying & Determining, of all High & Capitall Offences, where the Life of any person may or Shall be brought in question. *And I do further ordain*, That if any person or persons being Defendant or Defendants in any suit or Action, who shall by Reason of their speedy Departure out of this Province, require a more speedy Determination in the Premises then can be had in the s^{d} County Court of Comon Pleas, That upon application to the Justices of the s^{d} County County of Comon Pleas they may grant such Defendants, Speciall Courts, and may proceed to hear & determine the premises, such persons having first given sufficient Bail to

Courts of equity shall be held four times a year.

Each court may make its own rules.

Commissioners of oyer and terminer shall try capital offences.

Departers out of province may have special courts.

stand to & abide their Judgement, according to the Course & practice of the s[d] County court of Comon pleas. Given under my hand & Great Seal of the Province at Philadelphia the Two & Twentienth day of February in the ffifth year of the Reign of our Soverign Lady Ann by the Grace of God of England, Scotland, ffrance & Ireland, Queen Defender of the faith &c Annoq Domini 1706.

JOHN EVANS.

Recorded 11[th] mo 2, 1707, Patent Book A. 4, 34.

AN ACT

For establishing Courts of Judicature in this Province.

For the more orderly establishment & Regulation of the courts of Justice within this Province, *Be it enacted by Charles Gookin Esquire, By the Queens Royall approbation Lieutenant Governour under William Penn, Esquire, true and absolute proprietary and Governour in Chief of the province of Pennsilvania, By and with the advice and consent of the freemen of the s[d] province in Generall Assembly met, and by the authority of the same*, That there shall be holden and kept a court of Record, Twice in every year in every county of this Province in the months commonly called, as followeth: That is to say, at Philadelphia for the City, and County of Philadelphia, the Tenth day of April and Twenty-fourth day of September; at Bristoll for the county of Bucks, the fourteenth day of April, and the Twenty-eighth day of September; and at Chester, for the county of Chester, on the eighteenth day of April, and the second day of October: Which said court shall be called and stiled, The Supream Court of Pennsilvania; and there shall be four persons of known Integrity and ability appointed and commissionated by the Governour, or his Lieutenant from time to time, by several distinct patents or commissions under the Great Seal of this Province, to be Judges of y [s]d court; one of whom shall be distinguiished in his commission by the name of chief justice; And every of the s[d] Judges shall have full power and authority by virtue of this act, when and so often as there may be occasion, to issue forth Writts of Habeas Corpus, Certiorars, writs of Error, Prohibitions, Inquisitions, Audita Querela, Mandamus, and all Remediall, and other writs and precepts, (excepting the originall writs and process which by this act are to be granted by the respective Justices or Magistrates herein after mentioned.)

A supreme court shall be held twice every year in each county.

Four judges shall be appointed.

Judges shall have power to issue remedial writs.

And that the Judges or any two of them, shall have full power to hold the said supream courts, and therein to hear and Determine all please, plaints and causes, which shall be removed or brought there from the other courts according to the direction of this act, and to Examine and correct all and all manner of Errors of the Justices, and Magistrates of this Province, in their Judgments, process and proceedings, in

Quorum.

the Respective Courts herein after mentioned, as well in all pleas of the Crown, as in all pleas Reall, personall, and mixt, and thereupon to Reverse or Affirm the s^{d} Judgments as the law doth or shall direct; and also to examine, correct, and punish the contempts, omissions, Neglects, favours, corruptions, and defaults, of all Justices of the peace, Sheriffs, coroners, clerks and other officers, within the s^{d} Respective Counties. And if any person or persons be unjustly disfranchised in any Town Corporate, The said Judges in any of the Supream Courts shall give relief to such persons, and shall grant Writs of Mandamus and Restitution, as occasion may require, and shall award writs of certiorari, and all other writs, & process usually granted by the court of Queens Bench in Great Britain, upon and after Removall of causes there from other courts; and shall also award process for Levying, as well as such fines, forfeitures and Amerciaments, as shall be Estreated into the said Supream Courts, As of the fines forfeitures and Amerciaments, which shall be lost Taxed and set there, and not paid to the uses they shall be appropriated. And Generally shall minister common justice to all persons, and exercise the Jurisdictions and powers hereby granted, concerning all and singular the premises according to the laws and usuages of this Province.

Fines shall be estreated into the supreme court.

And be it further enacted by the authority afores^{d}, That there shall be a fit person Nominated by y^{e} Judges of the s^{d} supream courts for the time being, and commissionated by the Governour to be Prothonotary, or Clerk of the same courts, who shall keep and duly attend his office at some convenient place in the City of Philadelphia, and prepare all the s^{d} Writs, and precepts, so as afores^{d} grantable by the Judges.

Judges shall nominate and governors commission the prothonotary of the supreme court, who shall reside in Philadelphia.

Which s^{d} writts and precepts may be granted and directed into any county of this Province as occasion may require; and all the s^{d} Writts shall be made in the name and stile of the Queen, her heirs, and successors, and bear Teste in the name of the s^{d} Chief Justice for the time being. But if he be plaintiff or defendant, then in the name of one of the other Justices. And that the s^{d} Justices shall cause the Provinciall seall to be put to all the s^{d} Writts so as afores^{d} grantable by them, and also to the exemplifications of all Records and process, in every of the Supream courts.

How writs shall be granted and bear test.

And That all Writts of Error, Habeas Corpus, Certiorari & Audita Querela, shall be so as aforesaid granted of course, in the vacation as well as in the Court time, And that the same and all other Writts so as afores^{d} to be granted by the Judges, (save only such of the s^{d} Writts or other precepts which any one of the s^{d} Judges may by law cause the return thereof to be Immediately) may be awarded into any county of this Province, But shall be made Returnable to the Supream Court of the proper County, next ensuing the date of such Writts. Provided always, that in court time, no Certiorari or other Writt at the prosecution of any party Indicted for any offence cognizable in the Inferiour courts of this Provence, shall be granted by the said Judges to remove any Indictment or presentment from any of the Inferior courts

Writs may be awarded into any county.

No cause shall be removed from an inferior court before trial there.

before Tryall had there; unless such Certiorari or other Writts, shall be granted or awarded upon the motion of an attorney, and by Rule of Court made for granting thereof, before the Judge or Judges of the s[d] Supream Court Sitting in open Court. And that all the parties Indicted, prosecuting such Writt before allowance thereof, shall find Two sufficient Manucaptors, who shall enter into a Recognizance before one or more of the Magistrates or Justices of the peace of the county, or place, in the sum of Twenty pounds, with condition at the Return of such writts to appear and plead to the Indictment or presentment in the s[d] supream court, and at his and their own costs and charges, to cause and procure the issue that shall be joyned upon the said Indictment or presentment or any plea relating thereto, to be tryed at the next supream court to be held for the county wherein the s[d] Indictment or presentment was found, next after such writ shall be returnable; And that the partie or parties presenting such Writt or Writts shall appear from day to day in the supream court, & not depart untill he or they shall be discharged by the same court. And that the s[d] Recognizance and Recognizances taken as afores[d], shall be certified into the s[d] Supream court with the s[d] Certiorari and Indictment, to be there filed, and the name of the prosecutor (if he be the party grieved or Injured) or some publick officer, to be Indorsed on the back of the s[d] Indictment; and if the person prosecuting such writt being the defendant, shall not before allowance thereof by one of the Justices of the court to whom the same writ shall be directed, procure such Manucaptor to be bound in a Recognizance as afores[d], the Magistrates or Justices of the s[d] Inferiour courts may and shall, proceed to tryall of the s[d] Indictments in the s[d] courts, notwithstanding such Certiorari or other writ so awarded:

How an appeal may be made and entered.

And if the defendant prosecuting such writt, be convicted in the Supream court of the offence for which he was Indicted, that then the said Supream Court shall give reasonable costs to the prosecutor, to be taxed according to the course of the said court; And that the prosecutor shall for recovery of such costs, within Ten days after demand made of the defendant and refusal of payment, on oath or affirmation have an attachm[t] granted against the defendant by the s[d] court, for such his contempt; and that the s[d] Recognizance shall not be discharged till the costs so taxed shall be paid.

Prosecutor to be allowed reasonable costs.

Provided always, That in any of the vacations, Writts of Certiorari may be granted by any of the Justices of the said Supream courts whose name shall be indorsed on the s[d] writt, and also the name of such person at whose instance the same is granted; and that the party or parties indicted, prosecuting such Certiorari shall before the allowance of such writ or writs of Certiorari, find such securities in such sum and with such conditions as are before mentioned.

How writs may be granted during vacation.

Provided also, that no writ or writs of habeas corpus, Certiorari or any other writt or writts, whatsoever, to be sued forth to remove out of any of the courts of common pleas hereinafter mentioned, any of the pleas, plaints, or actions there depending, for any matter, cause or thing whatsoever,

Applications for writs of *habeas corpus, certiorari*, &c., shall not be received or allowed by the justices of

inferior courts, in any cause depending, before issue is joined.

properly cognizable there, and whereof the court where the same pleas plaints or actions are, or shall be so depending shall have jurisdiction or power to hold plea, shall be received or allowed by any of the Justices of the s[d] courts to whom the s[d] writts shall be directed and delivered; but that he and they shall and may proceed in the said cause or causes as if no such writt or writts were sued forth or delivered to him or them, unless that the said writt or writts be delivered to the Justice or Justices of the said court, before issue or Demurrer joyned in the s[d] cause or causes so depending in such court having power to hold such plea; and unless such writt shall be under the s[d] Supreme court and signed by one of the Judges, as also by the prothonotary of the same court; and unless the partie or parties suing forth such writt, shall, before the allowance thereof pay down the lawful fees or charges of the inferior court then accrued; and when the said charges are pay'd, one of the justices of the court to whom such writt was directed, shall allow the same writt and make return thereof, and certifie the causes according to the command of such writt; Whereupon, the defendant or party that sues forth such writs, shall put in speciall Bail before one of the Judges of the Supream court where the writ is returnable, such as the s[d] judge when he sees what the causes are, and hears the objections of the plaintiff or his attorney against such Bail, shall approve of; but before any such Bail be taken, the defendant shall upon or within four days next after allowance of the writt as afores[d], give to the plaintiff, or his attorney, notice in writing, of the names and additions of the Bail, the time when, and the Judge before whom the same is intended to be put in; But if neither the plaintiff nor his attorney can be found, then notice of the premises shall be left with the clerk of the interior court, by the party that tenders the Bail or his attorney; and affidavits upon oath or affirmation made thereof, otherwise the Bail shall not be taken; but a *procedendo* shall be granted by any of the Judges, if it be desired, before Bail accepted or taken. And if the plaintiff or his attorney after such notice will not attend to take exceptions to the Bail at the time of the taking thereof, nor within twenty days after, then the Bail may be taken *De-bene esse*—, and upon an affidavit made of the s[d] notice as aforesaid, the same Bail shall be forthwith filed in the office of the Prothonotary of the s[d] Supream court by the attorney that sues out the writt. But if it be not filed within four days next after the expiration of the said twenty days, a *precedendo* shall be granted upon certificate thereof from the Prothonotary, that it is not filed. And if the Defendant be in prison, or under Bail in the Inferior court, neither he nor his Bail shall be discharged by reason of any of the s[d] Removals, until the Bail is so as aforesaid approved on and filed in the Supreme court. And if any such plea plaint or action shall be Remanded by *precedendo* or otherwise, the same shall never afterwards be removed or stayed before judgement.

Writs shall be granted only when signed by one of the judges of the supreme court and the prothonotary.

The lawful fees of the inferior court must first be paid.

Special bail must be entered.

Written notice of amount of bail and names of sureties, shall be given by defendant to plaintiff or his attorney, or left with the clerk of the inferior court.

A *procedendo* may be granted before bail is accepted.

If a *procedendo* be issued, there shall be no stay or removal before judgment.

Actions not concerning freehold or inheritance.

And if any action, Bill, plaint suit or cause not concerning free hold or Inheritance, or Title of Land, Lease or Rent,

which shall be brought, commenced or Depending, in any of the s[d] courts of Common pleas, It shall appear to be laid in the Declaration That The Debt, damages or things demanded, doth or shall not amount to or exceed the sum of Ten pounds, That then such action, suit or cause, shall not be stayed, nor Removed into any or the s[d] Supream or other courts by any writt or writts whatsoever, other than writts of Error or Attaint.

title of land, lease or rent, under ten pounds cannot be stayed or removed to supreme court.

Provided also that when any writt, of Habeas Corpus, directed to any sheriff shall be made returnable immediately, he shall make his Return the same day that such writt is delivered, and shall bring the body immediately, without permitting the prisoner to wander abroad by colour or pretence thereof.

Sheriffs return of writs of *habeas corpus* shall be made the same day writ is issued.

And be it further enacted by the authority afors[d], That there shall be A Court of Equity held by the judges of the s[d] respective Supream courts in every county of this province. Which said Judges or any two of them within the limits of their commissions and authoritys to them appointed by this act, shall have full power and are hereby Impowered and authorized, to hear and decree all such matters and causes, as by appeals from the respective inferior courts shall come before them, as afores[d], and thereupon to Revoke, make void, alter or confirm, such decrees or sentences, acts, or proceedings, of the s[d] Respective courts relating thereto, and to make such decrees and take such orders therein as shall be agreeable to Equity and Justice. A that it shall & may be lawfull to and for the s[d] Judges who make any, by virtue of this act, to compell and order the Execution thereof by Imprisonment of Bodys, or Sequestration of any of the Lands of such who upon sight or due notice of such decree, or upon service of the Judges decretall, order or Judiciall process, duly proved before one or more of the Judges, shall refuse or neglect to comply with or perform the same.

A supreme court of equity shall be held to hear appeals from the inferior courts.

How decrees shall be executed.

Provided, always that nothing herein contained shall oblige the Judges of the Supream Court nor any of them to go their circuit to the s[d] countys of Bucks or Chester, But when there shall be some cause removed from the respective Inferior courts, or some writt or writts of Error, appeals or other matter, or cause cognizable by them which shall require their coming, whereof the Prothonotary or clerk of the s[d] Supream court shall give them notice, with all expedition, after any such removall, Appeall, or Writts of Error, shall come to his knowledge; And that the s[d] Judges upon such notice given them, shall cause the sheriff of each of the s[d] two counties respectively, forthwith to warn the Justices, Coroners and Constables to yield their attendance according to the directions of this act.

Judges shall not be compelled to travel the circuit, except when causes cognizable by them are to be heard.

And be it further Enacted by the authority afores[d] That ——— days shall be given in all pleas, plaints, process and adjournments from day to day, and court to court, by the discretion of the s[d] Judges within the limits of their authoritys; And if need be the s[d] Judges for the more speedy Ministration of Justice may give——— days before any one of them in Vacation times, for returning of Habeas Corpus,

The judges may fix return days, &c., during vacation.

Certiorari or other writts, as also for assigning of errors, filing of pleas, and for performing such other things, as shall be necessary to expedite the hearing and determination of all matters and causes depending before them from time to time.

Appeals to the Queen shall be allowed upon bail given by appellant to prosecute the cause in Great Britain, &c.

Provided always, That no Judgm^t, Sentence, or Decree, of the s^d Supream courts shall be so finall, but that the party grieved therewith, may appeal to the Queen, so that such appellant does deposit the sum or sums recovered or decreed against him, or become bound with one or more sufficient sureties, to the party for whom such judgment or sentence is given, by Recognizance, in double the sum adjudged to be recovered by the sentence, decree or judgm^t, of the Supream Courts, with condition, That the person or persons appealing, shall & will within eighteen months next after, prosecute his or their appeal in Great Brittain with effect, and if the Judgment or Decree affirmed there, or that appellant fails in the prosecution of his s^d appeal within the time afores^d, Then the s^d appellant, or party in whose name the appeal is made, shall pay all the debts, Damages, and costs, adjudged upon the former judgm^t, sentence or decree, and all such costs and damages as shall be awarded for delaying execution, or they the Justices shall do the same for him. Whereto the Judges before who the Recognizance is given shall subscribe their hands and then execution shall stay and the appellant if taken in execution shall be discharged.

Courts of quarter sessions shall be held four times a year in each county.

And be it further Enacted by the authority afores^d that there shall be a court stiled. *The Generall Quarter Sessions* of of the *Peace & Gaol Delivery* holden and kept four times in every year, in each county of this province, on the days of the week, and months commonly called as followeth; That is to say; At Philadelphia, for the county of Philadelphia, on the first Monday in March, June, September and December; At Bristol, for the county of Bucks, on the second Tuesday in every of the same months; And at Chester, for the county of Chester, on the last Tuesday in May, August, November and February. And that there shall be a competent number of Justices in Every of the s^d counties nominated and appointed and authorized by the Governour, or Lieutenant Governour for the time being, by commission under the Broad Seal of this Province, which s^d Justices, or any three of them, according to the Tenor and Direction of their commission, shall and may hold the s^d Generall sessions of the peace, and Gaol Delivery, and each of them keep and cause to be kept, y^e peace of our Lady the Queen, her heirs and successors, and acts, and statutes, made, and to be made, for the conservation of the peace, and for the quiet rule and Government in the respective counties for which they shall be commissionated, as afores^d. And accoraing as those acts and statutes do, or shall direct, to chastize, and punish all persons offending against those acts and statutes; and to cause to come before them the s^d Justices, or any of them, all such persons who shall Threaten any of the people of our s^d Lady the Queen, her heirs, or successors, concerning their body's, or estates, to find sufficient security for the peace, or Good Behaviour, and if they refuse to find such

The governor shall appoint the justices.

Three a quorum.

Duties.

Jurisdictions and method of proceedure.

security, then to cause them to be safely kept in prison, until they find such security, And to make due inquiry by good and lawfull men, of the s[d] Respective counties, by whom the truth may be the better known, of all manner of Felonys, and other crimes and offences whatsoever, of which Justices of the peace, Justices of Oyer and Terminer, & Gaol Delivery, may or ought lawfully to Enquire, by whomsoever or howsoever done or perpetrated, or which hereafter shall be done or attempted in the s[d] respective counties. And of all those who have gone or Ridden, or hereafter shall presume to go or ride in companies with armed force against the peace, to the disturbance of the people; And also of all those who have lain or shall lie in wait to maim or kill any of the Queens subjects; And also of Inholders and keepers of Taverns, and alehouses; And of all those who have offended or hereafter shall presume to offend in the abuse of Wheights and Measures; And of all sheriffs, clerks, coroners, Gaolers, constables, or other officers whatsoever, who in the execution of their officers about the premises, or any of them, have unlawfully demeaned themselves or hereafter shall presume unlawfully to demean themselves, or have been or hereafter shall be careless or negligent in the s[d] Respective counties; And so inspect, here and determine, all indictments or presentments whatsoever, to be taken before the s[d] Justices, or any of them, or which have been made or taken before the present or late Justices of the peace, and Judges of the late provinciall courts in the said counties, not as yet determined; and to make and continue process thereupon, against all persons so Indicted or presented, or which hereafter shall be Indicted or presented, before the s[d] Justices until the s[d] persons be apprehended, render themselves, or be outlawed, And that the s[d] Justices in their s[d] generall sessions shall have power and are hereby Impowered to here and determine all Burglaries, Burning of houses, Roberies, Grand and Petty Larceny, Rape, Sodomy, Buggerys, Incests, Fornications, Poligamys, Transgressions, false conspiracies, Unlawfull Maintenances, champertys, Imbracerys, Barrettrys, Forestallings, Regratings, Ingrossings, Extortions, Fraude, and Deceits of persons getting money, and other things by false Tokens, or counterfiet letters, in any other persons name, or of Tradesmen making their Manufacture or using their Trades deceitfully; assaults, Batterys, Bloods heds, Maihems, Forcible Entry's, Forcible detainers, Nusances, Incroachments, discords between Masters and servants, discords in Alehouses and Taverns, unlawfull gaming, entertaining Inmates, unlawfull assemblys, Riots, Routs, and Indictments aforesaid, and all and singular the premises and all other crimes and offences of what Nature, Names or Qualites soever they be, which have been, or shall be done, committed, perpetrated or happened within the said respective Counties, against the common law, or against the form of any law of this province. (*Excepting* Treasons, Murthers, and such other crimes as shall be by the Laws of this Province made Felongs of Death) and chastize and punish all persons offending in the premises, and every of them for their

Capital offences excepted.

offences, by fines, Ransoms, Amerciaments, forfieture or otherwise, as ought, and hath been used to be done according to law, and the form of the act ordinances & statutes afores^{d}. And to committ to prison, Lett to Bail, and discharge offenders, of or for offences, or crimes, cognizable before them the s^{d} Justices, and to take recognizances and obligations, in such cases as the law doth or shall direct. And to grant and issue forth all & all manner of writs, precepts and process, which by Law are or ought to be, awarded or issued, in or upon the procedure of any of the offences, matters, causes & things hereby made cognizable in the s^{d} courts of Generall Quarter Sessions and Gaol Delivery; And Generally to Minister common Justice, and to do, exercise, hear, determine and execute, all things within the s^{d} respective counties, and limits of their commissions and authoritys, as near as conveniently may be to the Laws of Great Brittain and according to the laws of this Province, as fully and effectually as any Justice of Assize, Justice of Oyer and Terminer or of Gaol Delivery, or Justices of the peace may or can doe. *Provided always*, that nothing herein contained, shall impower the said Justices in the s^{d} Generall Sessions, to hear and determine any presentment or Indictment, made or taken before y^{e} late Judges of the Provinciall courts of this Province, for or concerning any Treason or Murder.

But that all and every the Indictments and presentments so made and taken, for or concerning any Treasons or Murders not as yet determined, as also all Treasons, Murders, and such other crimes, as shall be by the laws of this province, made capitall or felonys of Death, which have been or shall be done, committed, perpetrated, or happen within this province, shall be heard, Tryed and determined, by and before such and so many *Commissioners of Oyer and Terminer and of Gaol Delivery*, as shall especially named and constituted for that purpose, by the Governour, or Lieutenant Governour for the time being, under the Great Seal of this province, when ever there shall be occasion, Which s^{d} commissioners shall have power to deliver the Gaols, of all persons committed for Treasons, Murthers, and such other crimes, as by the laws of this province shall be made capitall or felonys of death; and for that end to issue forth such necessary precepts and process, and force obedience thereto, as Justices of Assize, Justices of Oyer and Terminer and of Gaol Delivery, may or can do in the Realm of Great Brittain.

Capital offences to be tried before commissioners of oyer and terminer.

Provided also, that if any presentment shall be made in the s^{d} sessions of the peace, for concerning any crimes or offenses which by law may be inquired in, but not heard or determined in the s^{d} sessions of the peace; Then and in every such case, all such presentments or Inquisitions of those offenses, shall be sett down in writing, Indented and sealed by the Grand Inquest, one part to remain with them, and the other part with the Justices of the peace, in order to be delivered by one of them, to the said Speciall commissioners of Oyer and Terminer, at their next succeeding court, there to be proceeded upon as the law in such cases shall direct.

How the inferior court and grand inquest shall proceed, if such cases are brought to their notice.

And be it further Enacted by the authority afores[d]. That the s[d] Justices of the peace or any three of them, may pursuant to their said commissions, hold speciall and private sessions, when, and so often as occasion shall require; And that the said Justices and every of them shall have full power and authority, either in or out of sessions, to take all Manner of Recognizances and obligations, as any Justice of the peace in Great Brittain may, can, or usually do, all which s[d] recognizances and obligations, shall be made to the Queen, her heirs and successors, and all recognizances for the peace, Behaviour, or for appearance, which shall be taken by any of the s[d] Justices out of sessions, shall be certified into their s[d] General Sessions of the peace, to be holden next after the taking thereof; where the Justices may by virtue of this act, discharge and cancell any of those recognizance and obligations, as they shall see meet; and every recognizance taken before any of them for suspicions of any manner of felony or other crime, not Triable in the s[d] court of General Quarter Sessions of the peace and Gaol Delivery, shall be certified before the said special commissioners of Oyer and Terminer, to be holden next after the taking thereof, with out concealment, detaining, or Imbeazling of the same.

Private sessions may be held, with power to take recognizances out of sessions which shall be certified into the next quarter sessions.

Causes triable before the commissioners shall be certified to them.

But in case any person or persons shall forfeit his, or their, recognizance of the peace, Behaviour, or appearance, for any cause whatsoever; then the s[d] recognizances so forfieted, with the records of the default or cause of forfieture, shall be sent and certified without delay, by the Justices of the peace, into the s[d] Supream Court, as the case may require; that thence process may issue out against the parties according to law, all which forfietures, shall be Levyed by the proper officers, and shall go to the Governour.

Forfeited recognizances shall be certified to the supreme court.

And be it further Enacted by the aforesaid; That all fines and amerciaments, which shall be laid before the Justices of the s[d] courts of Generall Quarter Sessions of the peace and Gaol Delivery, or before the s[d] speciall commissioners of Oyer and Terminer, shall be Taxed and affeered by the s[d] Justices and commissioners respectively, and shall be set Truly & duly according to the quality of the offence, without partiality or affection; and shall be yearly Estreated by the Prothonotarys and clerks of the s[d] courts Respectively, into the s[d] Supream Courts. To the intent that process from thence may be awarded to the Sheriff of every county as the case may require, for levying such of the said fines and amerciaments as shall be unpaid, to the uses for which they are or shall be appropriated.

All fines affeered in the sessions, and by the commissioners, shall be estreated into the supreme court.

Provided always, that none of the s[d] courts of the Generall Quarter Sessions of the peace, shall be kept and continued, above the space of three days in the county of Philadelphia, at any of the times herein before appointed to hold and keep the same courts and sessions there, nor above the space of two days, in either of the s[d] countys of Bucks and Chester, respectively, at any of the s[d] times herein before appointed to hold and keep the s[d] courts, and sessions, there, in manner, afores[d].

Quarter sessions how long to continue.

Provided Also, That nothing herein contained, shall de-

This act not to abridge the powers of the corporation of Philadelphia.

prive or abridge the Mayor, Recorder, or Alderman of the City of Philadelphia, of any powers, priviledges, jurisdiction or franchises, granted them by charter, or the laws of this Province.

Writs of *capias*, &c., granted in one county, to operate in another.

And to the end, That persons indicted or outlawed for fellownys or other offences, in one county, or Town corporate, who dwell, remover or be received in another county, or Town corporate, may be brought to Justice, *It's further Enacted*, That the s[d] Justices, Commissioners, and Magistrates in any Court in any County or Town Corporate, within this province, assigned to hear and determine such felony's or offences, shall direct their writts or precepts to all or any the Sheriffs, or other officers of the said countys or Towns Corporate within this Province, where need shall be to take such persons indicted or outlawed. *And* that it shall and may be lawfull, to and for all and every the said Justices, Commissioners and Magistrates, to issue forth Subpenas and other Warrants, under their respective hands and seals, into any county, or place of this province, for summoning and bringing of any person or persons, to give evidence in and upon any matter or cause whatsoever, now, or hereafter examinable, or in any wise tryable by or before them or any of them, under such pains and penalties as subpenas or warrants of that kind usually are, or shall be granted or awarded.

Persons aggrieved, &c., may have their writs of error, returnable to the supreme court.

And be it further Enacted, by the authority afores[d] That if any person or persons, shall find him or themselves aggrieved with the judgment of any of the s[d] courts of General Quarter Sessions of the peace, and Goal Delivery, or of any of the said courts of speciall, of Oyer & Terminer, or any of the courts of Records for the s[d] City of Philadelphia, or of any other Town Corporate within this province; It shall and may be lawfull, to and for the party or partys so grieved, to have his or their Writt, or Writts of Error, which shall be granted them of course, in manner as other writts of error are by this act to be granted, and made returnable to the supream Court of the proper county; So as no person or persons whatsoever shall by vertue or colour of any such writt of error, be let to Bail or out of prison, if his or their crime for which he or they are convicted, be felony of Death by the laws of this province.

Of proceedings of the city courts only the tenor, &c., to be certified into the supreme court.

Provided always, that when any writt of error shall be granted, upon any judgment given or to be given in any court of record held, or to be holden, for the s[d] city of Philadelphia, The Mayor, Recorder, and Aldermen, of the said City of Philadelphia, and their successors, or any of them, shall not be compelled upon any of the said writts, or any other writt or writts directed unto them or any of them, to remove, send, or certifie, unto the said Supream Court, or elsewhere, any of the Indictments or presentments taken or to be taken before them, or the record of the judgm[t] and proceedings upon any such Indictments or presentments, But only the Tenors, or Transcripts of the said Records, under their common seal: and after such judgm[ts] are reversed, or affirmed, or causes lawfully removed from the s[d] city courts, are Tryed in the s[d] Supream Courts, It shall be

lawfall for the Mayor, Recorder & Aldermen and their successors, to proceed to execution or otherwise, as shall appertain according to the direction of the Judges.

The magistrates, constables, &c., of the city to attend the supreme court and courts of oyer and terminer.

Provided also, and it is hereby enacted, That the Magistrates and constables of the city of Philadelphia, and the Justices, sheriffs, coroners and constables, of the s^d^ respective counties of this province, shall attend the Supream courts, as also the courts of Speciall Oyer and Terminer, and perform their Respective Dutys therein, as the law doth or shall require.

Courts of common pleas to be held in each county, four times a year.

*And be it further enacted by the authority afores^d^*, That the Justices of the s^d^ courts of Generall Quarter Sessions in the respective counties for which they are commissionated as afores^d^, shall hold and keep a court of record in every county, which shall *be* called and stiled; *The county court of common pleas*, and shall be holden four times in every year, at the places where the s^d^ Quarter Sessions shall be Respectively kept, as afores^d^, in the months commonly called as followeth; That is to say, at Philadelphia, for the city and county of Philadelphia, on the first Wednesday in March, June, September and December; at Bristoll, for the county of Bucks, on the second Wednesday in every of y^e^ same months; and at Chester, for the county of Chester, on y^e^ last Wednesday in May, August, November and February. Which said Justices, or any three of them, within the limits and according to the Tenor and Directions of their commissions and authoritys of them appointed, as is aforseaid shall hold pleas of assizes, Scire, Facias, Replevins, and hear and determine all, and all manner of pleas, Actions, Suits, and causes, civil, personal, reall, and mixt, as near as conveniently may be to the rules of the common law, and to the course and practice of the Queens court of common pleas at Westminster, and according to the laws & constitutions of this province.

Three justices a quorum.

Justices of the court to grant replevins, &c., &c.

And be it further Enacted by the authority aforesaid, That every of the said Justices shall grant replevins, and all writts, and process, upon the said pleas, plaints & Actions, as occasion shall require. The same to issue out of the Prothonotarys office under the county seal;

A prothonotary or clerk in each county.

And that there should be a Prothonotary, or clark of the s^d^ courts of Generall Quarter Sessions, and common pleas, in every county of this province, who shall attend upon the said Justices for the entering of all pleas, process, and Matters of Record in the same courts. And that the sheriff, coroner, and constables, of every county shall attend upon the Justices, at their said courts.

One or more of the justices may sit to receive returns on original writs, &c.

*And be it further Enacted by the authority afores^d^*, That any one or more of the s^d^ Justices in every county of this province, as they shall see occasion, may sitt once in every six weeks at the place where the said courts of common pleas shall be usually held, to the end only, That originall writts and process may be made returnable there; and rules for pleas, Replications, and other pleadings may be there given, and issues joyned, & other preparations made for expediting the Tryals of causes depending in the said courts of common

pleas; and y^{t} Judgm^{t} for want of appearance, or for not entring pleas, Replications, and other pleadings, may be there given, & obtained. *Provided always*, That no dilatory plea, shall be received in any court of this Province unless the truth thereof shall be proved by Affidavit or attest, or some matter shewn to induce the court to believe the fact true. *Provided also*, That any defendant in any action or suit, or any plaintiff in Replevin, in any of the said courts of common pleas, may with the leave of the court, plead as many severall matters as he thinks necessary; But if such matters shall upon demurrer be judged insufficient, costs may be given, at the discretion of the court, or if a verdict shall be found upon any issue in the s^{d} cause for the plaintiff, costs shall be also given in like manner, unless it appears to the court that the defendant, or plaintiff in replevin, had a probable cause to plead such matters, which upon the issue shall be found against him.

No dilatory pleas shall be received.

The defendant in any suit & plaintiff in replevin may plead several matters.

If pleas are insufficient costs shall be given at the discretion of the court.

Provided also, that if it shall appear to the justices, That it will be proper and necessary, That the Jurors who are to try such issues shall view the Messuages, Lands or places, in Question, the better to understand the evidences, In such cases the Justices may order speciall writts of view, to issue to the sheriff, commanding him to have six, out of the first Twelve, of the Jurors named in the pannell, at the place in Question some time before the Tryall, who then and there shall have matters in question shewn unto them, by Two persons in s^{d} Writts named, to be appointed by the court, and the sheriff or other officer who executes the s^{d} writt, shall specially return the view made as afores^{d}.

Special writs may be issued for jurors to view lands & tenements in question.

And be it further Enacted by the authority afores^{d}, That after demurrer joyned and entered, in any action or suit in any court of Record, within this province, The justices shall proceed and give judgment according as the very right of the cause and matter of law shall appear unto them, without regarding any Imperfection, omission, or defect, in any writt, return, plaint, declaration, or other pleading, process, or course of proceeding, whatsoever; Except those only which the party demurring, shall specially and particularly sett down and Express, together with the demurer as causes of the same, notwithstanding that such imperfection, omission or defect, might have heretofore been taken to be matter of substance, and not aided by the statute of xxviith of Elizabeth, Chapter the vth, so as sufficient matter appear in the s^{d} pleadings, upon which the court may give Judgment according to the very right of the cause.

After demurrer joined, cause shall be continued to judgment without regard to imperfections and omissions in writ, return, &c.

And that no advantage be taken of an immateriall Traverse or default of entering pledges, on any Bill, or declaration or default of alledging the bringing into court, of any Bond, Bill, Indenture or other Deed, whatsoever, mentioned in the declaration and other pleading, or of Bringing into court Letters Testamentary, or Letters of administration, or by reason of omission of (with force and arms,) or (against the peace), or for want of Averring. (This he is ready to verify) or for not alledging, (as appears by the Record); But the court shall proceed and give Judgment according to the very

No advantage shall be taken of an immaterial traverse or default of entering pledges, &c.

right of the cause, as afores[d] without regarding any such imperfections, omissions, or defects, or any other matter of like nature, except the same shall be specially and particularly set down and shewn for cause of demurrer.

Breach of covenant.

And be it enacted by the authority afores[d] That in all actions upon any Bond, or penalty for nonperformance of covenants, The p[lt] may assign as many Breaches, as he shall see fitt; and the Jury at the Tryall shall and may assess damages for such of the s[d] Breaches, as the plaintiff shall prove broken, and the like Judgment shall be entered on such verdict as hath been used in such actions; And if Judgment be given for the plaintiff upon demurrer, confession, or *nihil dicit*, the plaintiff upon the Roll may suggest as many Breaches as he shall think fitt, upon which shall issue a writt to summon a Jury to inquiry of the truth of every one of those Breaches, and to assess damages accordingly, and to return the same to the court where the cause depends, and thereupon the proceedings shall be according to a statute made in the viii[th] & ix[th] years of William the Third, Chapter the xi[th], entituled, An Act for the better preventing frivolous and vexatious suits. Which statute shall in that, and all other things be observed and put in practice in this province, so far as circumstances can admit.

Actions of debt.

On penal bond.

And where any action of debt is, or shall be brought upon any single Bill, or Scire Facias, upon Judgment, and the money due thereon pay'd, such payment may be pleaded in Barr to such action, or Scire Facias. And where an action of debt is brought upon a Bond, with condition or defeazance to be void upon payment of a lesser sum, at a day or place certain. If the obligor his heirs executors or Administrators have before the action brought, payd or offered to pay, the obligee, his executors, administrators or assigns, the principall and interest due by such condition, or defeazance, in the Specie therein mentioned, Th[e] such payment or Tender shall not appear to be strictly made according to the s[d] condition or defeazance, yet such payment shall be as effectuall a Barr of such actions, and if the money had been payd according to the condition or defeazance, and had been as pleaded; And such Tender, shall be a Barr of damages and costs in such action; And if at any time pending an action upon any such Bond. The defendant shall offer to the plaintiff, the principall and Interest in the specie mentioned in the condition of such Bond, with costs expended in law and equity, or shall bring the same into court, It shall be deemed a Good Discharge of the s[d] Bond; And the court shall give Judgment to discharge every such defendant accordingly, And when a penalty is declared for, the plaintiff shall have Judgment but for his reall debt, Interest and charges, with such damages as the court shall adjudge, and the defendant shall by the courts order be discharged upon the record for the residue.

Plaintiff to have interest on delayed executions.

Provided always, that in all cases where the plaintiff recovers Judgm[t], If at the instance or request of the defendant he delays taking out Execution upon such Judgment, then

the plaintiff to have Interest allowed, from the day Judgm is given.

Motion for arrest of judgment before verdict.

And be it further enacted by the authority afores^{d}, That if any person or persons find themselves grieved with the verdict of any Jury and have just cause to move in arrest of Judgm^{t}, They may do so after verdict, and before Judgment;

Neglect to make motion before verdict, then a writ of error.

But if they neglect their motion, and Judgment be entered, Then if they intend to avoid such Judgment, They may have their writt or writts of Error, which shall be granted them of course and made returnable before the Judges of the s^{d} Supream Court, and the plaintiff or plaintiffs in such writts of Error, shall bring the same to one or more of the Justices of that court where such Judgm^{t} was Entered, and thereupon, he or they, with one or more sufficient sureties, (such as the s^{d} Justice or Justices shall approve of) shall be come bound to the defendant or defendants, in the writt of Error, or the party for whom such Judgment is given, by recognizance in double y^{e} sum adjudged to be recovered by the said Judgment, conditioned that the plaintiff in the writt of Error hath good cause of Error, and shall follow the same writt with effect; and if the judgm^{t}, be affirmed in the Supream Court, shall satisfie all the debts, damages and costs, so adjudged, and all costs and damages, for delaying of the execution by the writt of Error; but before such recognizance be taken, the s^{d} defendants in Error may object the insufficiency of the suretys, which the Justice or Justices aforesaid, shall duly consider, and when the secureity is taken, one of the Justices of the same court shall allow the s^{d} writt of Error, and subscribe his name to y^{e} Allocator, as also to the Caption of the s^{d} recognizance. Which writt of Error so allowed as afores^{d}, shall be and is hereby declared to be a supersedeas, of it self, to any Execution granted or to be granted, or not executed, until the s^{d} writt of Error be determined or discontinued in the Supream Court: But if any writt of Error shall be quashed for variance from the originall record upon which it is grounded, In such error the defendant shall recover against the plaintiff the costs he should have had, if the Judgment had been affirmed.

Writs of error sufficient *supersedeas* to stay execution.

Plaintiff in error having satisfied judgment, is not required to give bail.

Provided always, that no plaintiff in error having complyed with and satisfied the judgment given against him in any of the said courts, nor any executor or administrator against whom judgment hath been or shall be obtained, for debt or damages to be levyed of the goods and chattles of the Testator or Intestate, shall be obliged to give Bail upon allowance of any writt of error by any of them, to be brought for reversing such judgments.

Where verdicts have been given, there shall be no reversal or stay by reason of omissions or defects.

And be it further enacted by the authority afores^{d}, That if any verdict of Twelve men hath been or shall be given in any action, suit, Bill or demand, in any court within this province, Judgment thereupon shall not be stay'd or reversed, for any of the omissions, defects, variances or defaults, helped by any of the acts of parliament in Great Brittain, called statutes of Jeofails, all which s^{d} statutes shall be observed in this province, and shall be extended to Judgments entered or to be entered, in any court of record, upon confession,

Non sum Informatus, or *Nihil Dicit*, which s[d] Judgments, as also Judgments given upon any writt of Inquiry of damages executed thereon, shall not be stayed or reversed, for or by reason of any Imperfection, omission, defect matter, or thing whatsoever, which would have been aided by the statutes of Jeofails, so that originall writts and warrants of attorney in such cases be duly filed.

Defendants in civil actions not to be arrested and detained in prison.

And be it further enacted by the authority afores[d] That no freeholder Inhabiting in any part of this province, shall be arrested or detained in prison by any writt of arrest or *Capias ad respondendum*, in any civill action, unless it be in the Queens case, or where a fine is, or shall be due to the Queen, her heirs or successors: But that the originall process against such freeholders shall be a writt under the hand of the Justice that grants the same, with the county Seal affixed, directed to the sheriff, or coroner of y[e] proper county, Commanding him to summon the defendant to be, and appear at such a court, such a day of return, At which day if the defendant will not appear, but make default, And the officer to whom such writt shall be directed or his attested or sworn Deputy, doth certify to the court, That ten days before day of the return of such writt, he hath summoned the defendant, and served him with a copy of the plaintiffs declaration, or left notice in writing with a copy of the declaration at the defendants dwelling house, in the presence of one or more of the defendants family, or neighbors, signifying that the defendant should be & appear according to the contents of such writt; upon which return, it shall and may be lawfull to and for the plaintiff, in any such action, to file a common appearance for the defendant so making default, and proceed to Judgment and Execution, which shall be as effectuall in law, as if such defendant had actually appeared and confessed Judgm[t], or suffered it to pass by *Nihil Dicit.* But if such freeholder be at any time arrested, the writt shall abate, And costs shall be given to the defendant by the court where such writt is depending or returnable; for which costs the like remedy shall be had as in other cases where costs by law is given to defendants.

The process shall be by summons, which if returned by the officer with proof of service, ten days before day of return, in event of non-appearance then judgment.

If defendant is arrested the writ shall abate, and costs follow.

Provided allways, that nothing herein or in any other act contained, shall exempt any person or persons from being arrested or attached, or shall debarr any person or persons, from having or taking out writts of arrest or attachment, so as the plaintiff in every such writt can make appear by affadavit to be made by him, her, or any other, upon oath, or affirmation, before the Justice who grants such writt, Testifying that the defendant in the same writt named, hath declared or signified his Intentions of going to sea, or of removing out of this province, or that the defendant in such writts hath refused or neglected upon demand, to give either reall or personall security for the debt or sum owing to the plaintiff in such writt, or refused without process, to appear and put in speciall Bail to the plaintiffs action, for the debt, Matter or Cause, for which he or she sues or complains, or that the defendant in such writt hath not been a resident in this province for the space of two years next before the tak-

Writs of arrest or attachment may be granted against persons departing the province.

ing out of such writt; or where the deponant can declare he is credibly Informed or believes, (giving the Justice a particular account of the grounds of his Information or reasons of his belief), that the defendant hath not a freehold estate in houses or lands, in this Province, to the value of the debt demanded, clear of all mortgages, extents or other Incumbrances. But that in any of the said cases, writts of arrest or attachment shall issue forth against every such defendant, as occasion may require.

Writs of arrest or attachments, may be granted in cases of fraud.

Provided also, That if the plaintiff in any of the s[d] writts of arrest or attachm[t], can make appear by affadavit to be made and taken as aforesaid, That the defendant lurks in secret places, or absents from the place of his usual aboad, or conceals himself in his own house, or in the house of any other, or suffers himself to be arrested, or his goods attached or taken in execution for a debt or sum not due, or makes over his lands, goods or chattels, to some of his creditors or others, to defraud or deprive the rest of his creditors of their proportions of his effects: In which cases, as also in case the defendant is going to sea or removing out of this province, and refuseth to give security, or appear gratis and put in speciall Bail to the plaintiffs action, as afores[d], writts of attachments shall issue forth as the case may require. All which affidavits shall be filed in the same court where such writts are returnable. And in case the day appointed by obligation or contract, for payment of the debt or sum demanded in any such defendant, be not come; nevertheless, writts of arrest or attachment shall issue forth respectively as the case requires, directed to the Sheriff, or other officer, commanding him to take the Body, or Attach the Goods, of the defendant in such writts, and to detain the same in safe custody until the day of payment be incurred, unless he or she shall find sufficient pledges or security for payment of the debt or sum, on the day wherein the same ought to be paid, as afors[d] and no defendant shall in such cases be received to plead that the writt precedes the day of payment; But may pleade other matters in discharge or Avoydance of such debt or demand. *And* if the defendant in any such writt or writts shall not appear on the day of the return thereof, Then the sheriff or other officer, to whom such writt or writts are directed, shall return the same in due form, and thereupon, the plaintiff may file a common appearance for such defendant, so making default, and proceed to Judgment and execution, which shall be as effectuall in law as if such defendant has actually appeared & confessed Judgment, or suffered it to pass by *Nihil Dicit:* But the defendant in all attachments shall have liberty within a year and a day, next after such Judgment to come into court and disprove or avoid the debt as hath been used.

Writ to issue whether day of payment has arrived or not.

No plea that the writ preceeds day of payment allowed.

If defendant not found plaintiff may file a common appearance for him.

A year and a day to disprove the debt.

Special bail not required, unless declaration be filed and debt exceed £20.

Provided also that no freeholder inhabiting within this province who by this act is exempted from arrests, shall be obliged to put in speciall Bail, unless the plaintiffs declaration be filled in the prothonotary's office, and the debt thereby declared for; be Twenty pounds, or upwards, But in all

actions of debt against such freeholder for a lesser sum, common Bail shall be accepted.

Provided also, that no person who shall be taken upon any of the s[d] writts of arrest for any cause wherein by law he is Bailable, shall be forced to give security or enter into Bond with suretys for his appearance at the day in such writt specified, in any sum above fourty pounds, unless the cause of action be either expressed in the writt or Indorsed upon it particularly; and where the cause of action is not so expressed or declaration filed, the Sheriff or other officer who executed such writt shall let to Bail and deliver out of prison, the person so taken or arrested, upon security in the sum of forty pounds and no more, given for appearance of such person or persons so arrested, unto the said Sheriff or officer, according to the statute in the Three and twentieth year of King Henry, the sixth, in that behalf made and provided.

No person bailable by law, to be forced to give security for appearance in any sum above £40, where the cause of action is expressed.

If the cause of action is not expressed in the writ or endorsed upon it, then the sheriff may admit to bail.

And upon appearance by the defendant of his attorney in the court on the day when such writt shall be returnable, The Bond so given shall be discharged, unless it shall appear to such court, that the matter requires speciall Bail, to be put in by such defendant, in which case the Bail Bond shall not be discharged, But the suretys named in such Bail Bond, shall stand bound and they are hereby obliged to bring the Body of the principall if he be condemed, or else pay the debt or sum he shall be condemed in, not exceeding such Bail Bond.

If an appearance, the bond is discharged unless special bail is required.

And where any person is or shall be arrested at any common suit and Bail taken as afores[d], The sheriff or other officer shall assign the Bail Bond or other security to the plaintiff therein named, by Indorsing the same before two witnesses, and if the same Bail Bond or security be forfeited after such assignment made, the s[d] plaintiff may bring an action thereupon in his own name, and the court where such action is brought may by rules give such relief in the originall action, or such as shall be agreeable to Justice; And such rules shall have the effect of a defeazance to such Bail Bond or Security.

In common suits the bail bond shall be assigned as security to the plaintiff.

Provided also, that before any definitive judgment be given by default, in any of the cases as afores[d]; the court or jury of Inquirey as the case may require, shall examine and hear the plaintiff, and the evidence that shall be produced on the plaintiffs part to maintain the action & prove the debt or matter declared for.

In judgments by default, the debt shall be proven.

Provided also, that no judgment shall be entered of record in any court of this province, unless it be signed by one of the Justices who gave the same, Nor any costs of suit be set down upon any of the said Judgments so entered, before the same costs be taxed, and allowed by one of the said Justices.

No judgment to be of record unless signed by one of the justices.

And where a *Capiatur* is to be entered upon Judgments, in actions of Trespass, Ejectment, assault and false imprisonment brought by party against party, in the s[d] courts, the Justice who signs such judgment shall have any sum, not exceeding Twenty shillings, in full satisfaction of the *Capiatur* fine, and shall make an increase to the plaintiff afores[d].

Capiatur fine.

Judgments entered in vacation.

And if any judgments as shall be ackowledged, or entered and signed in the vacation time, the Justice that signs the same, shall set down the day of the month and year of his so doing upon the paper docket or record he signs, which day and year, shall be also entered upon the Margent of the roll of the Record, where the s[d] Judgment shall be entered, and shall have relation accordingly.

Process on writs of inquiry for damages.

And to prevent excessive charges that have of late arisen upon executing of writts of enquiry of damages; It is hereby enacted that the Justices who give the Interlocutory judgment, shall at the motion & request of the plaintiff in the action where such judgment is given, or his attorney, make an order in the nature of a writt of Inquiry, to charge the Jury attending the next court after such Judgment is given, to Inquire of the damages and costs sustained by the plaintiff in such action, which Inquiry shall be made and evidence given in open court, and after the Inquest consider thereof, they shall forthwith return the Inquisition under their seals, whereupon the court may proceed to give Judgment as upon Inquisitions of that kind returned by the sheriff.

Eight days' notice of inquest to be given the defendant.

Provided always, that eight days notice be given, where the defendant or his attorney appears to the action as is usual upon executing writts of Inquiry; and such Inquest shall have and receive so much and no more than by law shall be allowed to Jurys that give their verdict upon issues joyned.

Justices may issue *subpœnas* for evidence, into any county.

And if any of the witnesses to be produced to give evidence upon any Tryall or cause in the court of common please in one county, do reside in another county of this province, it shall be lawfull, for any of the Justices of that court where such Tryall or cause is depending, to issue forth *subpenas* and other process to cause such witnesses to come to give evidence at the s[d] court, under such pains, writts, or precepts of that kind are usually granted.

Writs of execution.

And be it further enacted by the authority afores[d], That when any debt is recovered, damages awarded, or Nonsuit obtained in the said court, it shall and may be lawfull for the plaintiff or defendant who recovered or obtained the same, to take out his writt of *Capias ad Satisficiendum*, elegit *levari* or *fieri facias* as he shall think fit, and proceed there upon, according to the course of proceedings upon such writts in Great Brittain, having due regard to the directions of the laws of this province in the execution of lands.

Alias executions may be granted, directed to the sheriff of another county.

And be it further Enacted by the authority aforesaid, That when any sheriff or other officer to whom any of the said writts of execution shall be directed, shall return that the party is not to be found, or hath no lands, or Tenements, Goods or Chattles, in that county, and thereupon it be Testified that the party is Run into skulks, or lies hid, or hath lands, Tenements, Goods or Chattles, in any other county of this province; It shall and may be lawfull to and for y[e] court that issued out such execution, to grant, and they are hereby required to grant, an alias execution with a Testatum, directed to the Sheriff or Coroner of the county or place where such person lies hid, or where his lands or effects are, command-

ing him to execute the same according to the Tennor of such writt or writts, and make return thereof to the court of common pleas where such recovery is had, or Judgment given. And if the said Sheriff or Coroner to whom such writts shall be so directed shall refuse, or neglect, to execute and return the same accordingly, he shall be amerced in the court where he ought to return it, and be lyable to the action of the partie grieved; and as for what charges shall arise or accrue after the first execution is awarded, either for other or more writts of executions, or for appraising lands, or Chattles, or for portage of goods, or otherwise, over and above the costs & damages incerted in the s^d^ first execution, the plaintiff or party who obtained such execution shall be paid, and satisfied the same, out of the money which shall be made and levyed of the lands or other effects taken in execution, according as the court where the last execution is returned shall award.

The officer to whom such writ is directed, refusing or neglecting to execute, shall be fined, and liable to action for damages.

*And be it further Enacted by the authority afores^d^*, That if any person or persons being defendant or defendants, in any suit or action, who shall by reason of their speedy departure out of this province, require a more speedy determination in the premises than can be had in the s^d^ court of common pleas, upon application to the Justices of the s^d^ court, they shall grant such defendant Special Courts, and shall proceed to hear and determine the premises according to the course and practice of the court of pleas. *Provided always*, that before the s^d^ Justices shall grant such speciall court, or proceed to hear and determine the premises, such defendant shall give Bail to the plaintiffs action by recognizance according to the course and practice of the common pleas.

Defendants may have a special court in case of sudden departure.

Provided also, that the fees due to the justices and officers of such speciall court for anything done there, shall be double the fees usually taken by them for the same in the s^d^ court of common pleas, any thing herein or in any other law contained to the contrary notwithstanding.

Double fees to be paid.

*And be it further enacted by the authority afores^d^*, That every fraudulent gift conveyance or assurance of lands or goods to deceive creditors, shall be void, and the creditors shall have execution thereof, as if no such gift or assurance had been made, and all such Bonds, suits, Judgments, and executions made to avoid the debt or duty of others, shall (as against the party only whose debt or duty is so endeavoured to be avoided) be utterly voyd; and that the parties and privies to such frauds, shall be punished as is appointed by the severall statutes made in Great Brittain, against such frauds, all which statutes, as also all other statutes made in Great Brittain for the relief of creditors in that behalf, shall be put in execution in this province.

Fraudulent gifts and conveyances void.

Accessaries to be punished.

*And be it further enacted by the authority afores^d^*, That writts of partition between copartners by the common law, Joyntenants and Tenants in common, may be brought and proceeded on in the s^d^ courts of common pleas for the proper county as near as may be according to the course of proceedings in Great Brittain, upon such writts as a statute

Partition of copartnerships and joint-tenancy.

made in the eighth and ninth years of the Reign of the late King William, the Third, Intituled, an act for the easier obtaining partitions of lands in copartenary, Joyntenancy, and Tenancy in common, doth direct; And that all action of wast, whether the same be grounded upon the common law or statute laws of Great Brittain, may be brought & proceeded on in any of the s^{d} courts of common pleas in the proper county; and that actions of account may be also brought and proceeded on, in any of the said courts of common pleas, of the proper county, against the executor of every Guardian or Bailiff; and also by one Joyntenant, & Tenant in common, his executors or administrators, against the other as Bailiff, for receiving more than his proportion; and against the executors or administrators of such joyntenant or Tenant in common. And the auditors appointed by the court where such actions depend, may administer attests, and examine the parties and witnesses, and for their pains in auditing such accounts, to be paid by the party on whose side the Ballance appears, as by a statute made in the fourth and fifth years of the Reign of the Queen that now is, Intituled, an act for the amending of the law and better advancement of Justice, is ordained. *Provided*, that no falling or destroying of Timber Trees for the necessary Improvment of land or making plantations, Nor the falling of Timber Trees for Building or repairing any houses upon such plantations, Nor the felling and cutting of wood and Timber for any other use, unless the same be sold or carried off from the land it grew on, shall be adjudged wast punishable within this province.

Auditors.

Felling of timber trees for necessary improvement, not accounted as waste.

And be it further Enacted by the authority afores^{d} That there shall be A court of Equity held by y^{e} Justices of the s^{d} respective county courts of common pleas, four times a year, at the respective places, and near the s^{d} times as the s^{d} courts of common pleas are held, in every county of this province; and that the Prothonotary of the common pleas shall be the register of the s^{d} court of Equity in every county.

Equity courts, shall be held by the justices of each county, four times a year.

Which said Justices or any three of them within the limits of their commissions and authoritys to them appointed, as is afores^{d}, shall have full power and are hereby Impowered and authorized, to hear and decree all such matters and causes of Equity, as shall come before them in the said courts; Where the proceedings shall be as heretofore, by Bill and answer, with such other pleadings as are necessary in chancery courts and proper in these parts; with power also for the said Justices of the respective courts of Equity, to issue forth all manner of subpenas and all other process as may be needfull to oblige and force defendants to answer suits, there; as also to award commissions for taking and Examining witnessess; and to grant Injunctions for staying suits in law; and stoping wasts, as there may be occasion; observing as near as may be the rules and practice of the high court of Chancery in Great Brittain. With power also to make orders and award all manner of process, and do all other things necessary for bringing causes to hearing, and to force obedience to their decrees in Equity; which may be by Im-

Three justices shall be a quorum, with power to hear and decree all causes of equity.

prisonment of Bodys or sequestration of lands. And admitt Bills of Revivor as the case may require. And if any defendant or defendants in any suit which shall be commenced against them in one of the s[d] countys, shall after he or they are served with a subpena or other process, Remove into any county of this province, all process necessary to bring such defendants to answer, and all commissions for taking their answers and Examining of witnesses, with all other process necessary to bring such causes to a hearing, shall and may be awarded out of the court where those causes or suits shall be first commenced, into any other county of this province as the case may require.

Defendants removing to another county required to answer at the court where the suit commenced.

Provided always that no subpenas or other process for appearance, shall issue out of any of the s[d] courts of Equity, till the Bill s filed with the proper officer, Except Bills for Injunctions to stay wasts, or suits at law. *Provided also*, That if any person or persons shall find themselves grieved with any decree or sentence made or given by the s[d] Justices in Equity. It shall and may be lawfull to and for him or them so grieved, forth with to appeall, or have recourse to the Judges of the Supream Court, to set forth his or their case by petition, Bill or plaint, so as the sum adjudged to be payd by such decree amount to Ten pounds or upwards, this country money; and so as he or they so appealing first pay down the court charges, and either satisfie the decree or sentence so given, or deposit with the Justices, the sum awarded, or give sufficient security to prosecute the said appeall, and to pay all costs and damages that shall be awarded against him, or them; and then albeit the party appealing be Imprisoned upon that decree or sentence he shall be inlarged; and that such appeals shall supercede all further progress upon the decree or sentence appealed from, till the same be heard, Tryed or dismissed in the said Supream Court. *Provided also* that nothing herein contained shall give the s[d] Justice any power or authority to hear, decree, or determine, in Equity, any Matter cause or thing wherein sufficient remedy may be had in any other court or Before any other Magistrate or Judicature in this province, Either by the rules of the Common law, or according to the Tenor and directions of the laws of this province; But that when Matters determinable at common law shall be brought before them in Equity, they shall referr or remit the parties to the common law, and when matters of fact shall happen to arise upon their Examination or hearing of the matters and causes to be heard and determined in the said court, then, and in every such case they shall order the matter of fact to issue and Tryall at the Court of Common pleas for the proper county where the fact ariseth, before they proceed to sentence or decree in the s[d] court of Equity.

No process for appearance to issue until the bill be filed.

appeals in equity may be made to the supreme court.

Matters of fact must be determined by law.

And be it further Enacted by the authority aforesaid, That if the Prothonotary or Clerk of the afores[d] Supream Courts, or of the s[d] Courts of Generall Quarter Sessions of the peace and Gaol Delivery, or of the s[d] courts of common pleas, or Register of the courts of Equity, shall Misbehave himself in the execution of his office, and be thereof Legally convicted,

Prothonotaries and clerks may be removed if convicted of misconduct.

he shall be suspended and discharged from the same; and in such case the Governour or Magistrates to whom of right it shall belong, may appoint another fit person to be Prothonotary or Register in his room; and in case of neglect or refusall to make such appointment before the next court after such refusall, the Judges of that court may then appoint one; and that the like methods may be used by the Mayor, Recorder and Alderman of the city of Philadelphia, for suspending or discharging the clerk of the courts of the s^{d} city; and in such case they may appoint others in the Room of him, or them, who shall be so suspended or discharged.

Attornies may be admitted to plead.

And the s^{d} Justices, and Mayor and Recorder, respectively, may admit any attorney, or attornies to plead in any of the said courts respectively; and upon the misbehaviour of such attorney, or attornies, to suspend, or prohibit their pleading in any of the said respective courts.

Each court to establish its own rules.

And for the better executing of the powers and Jurisdictions by this act granted or intended: It may be lawfull to and for the s^{d} Judges and Justices of the s^{d} respective courts, to make and publish all and every such reasonable rules and orders as may be fit and necessary to regulate the officers, and ascertain the practice of the courts they belong to. Provided always that no Judges, Justices or other persons, shall by any means or under any pretence whatsoever, make promote Introduce or suffer, any rule order or practice, in any of the s^{d} courts that shall exact greater fees than what are, or shall be allowed by the laws of this province; or which may debar or render any person or persons who for conscience sake shall scruple to take an oath in any case, uncapable to serve, officiate, or act in any office, duty or service, whatsoever.

No rule to be adopted exacting greater fees than are allowed by law. Or that will prevent persons who scruple to take an oath from officiating.

Writs of ejectment, how issued.

And be it further Enacted, That it shall and may be lawfull to and for any person or persons who are or shall be unjustly disseised or kept out of their Lands, Tenements or hereditaments to which they have, or claim any estate, or right of inheritance, to take out their writt or writts of summons against the Tenant in possession of such lands or hereditaments, and in their declaration shall sett forth their right to the Lands or Tenements in Question, and if such Tenant will not appear at the day of the return of the summons, then the demandant or plaintiff shall take out a grand Cape, upon which if the Tenant or defendant does not appear at the return thereof, the demandant shall recover by default, and have a writt Seisin of the Lands.

This act not to discontinue any suit or action now pending.

And be it further enacted by the authority afores^{d}, That all and every the pleas, writts, Bills, actions, suits, plaints, process, pleadings, proceedings, Indictments and Informations, causes and things whatsoever, pleaded, returned, defending, or being in all and every, or any, of the courts of law and equity within the s^{d} province, shall be and are hereby continued, and may be proceeded upon at the respective courts hereby erected and appointed, to have conusance of such pleas.

Passed February 28th 1710.

Recorded Law book A, Vol. I p 235.

Repealed in Queens Council February 20th 1713.

AN ACT

For limitation of Actions.

Be It enacted by Charles Gookin, Esquire, by the Queen's Royal Approbation Lieutenant Governor under William Penn, Esquire; true absolute Proprietary and Governour in chief of the Province of Pennsilvania, by and with the Advice and Consent of the Freemen of the said Province in General Assembly met, and by the Authority of the same, That all Actions of Trespass *Quare Clausum fregit*, all Actions of Detinue, Trover and Replevin, for taking away Goods and Cattle, all Actions upon Account and upon the Case (other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants) all actions of debt, grounded upon any lending, or contract without specialty, all actions of debt for arrearages of rent (except the Proprietors Quitrents) and all actions of trespass of assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought at any time after the five and twentieth day of April which shall be in the year of our Lord, One Thousand Seven Hundred and Thirteen, shall be commenced and sued within the time and limitation hereafter expressed, and not after, *That is to say*, the said actions upon the case (other than for slander) and the said actions for account, and the said actions for trespass, debt, detinue and replevin for goods or cattle, and the said actions of trespass *Quare Clausum fregit*, within three years after the said five and twentieth day of April next, or within six years next after the cause of such actions or suit, and not after.

Actions to be sued within six years after the cause thereof.

And the said actions of trespass of assault, menace, battery, wounding, imprisonment, or any of them, within one year next after the said five and twentieth day of April next or within two years next after the cause of such actions or suit, and not after; and the said actions upon the case for words within one year next after the words spoken, and not after.

Those within one and two years.

And be It Further Enacted, That if any of the said actions or suits judgment be given for the Plaintiff, and the same be reversed by error, or a Verdict pass for the Plaintiff, and upon matter alledged in arrest of Judgment, the Judgment be given against the Plaintiff, that he take nothing by his plaint, writ, or bill, then, and in every such case the party plaintiff, his heirs, executors or administrators (as the case may require) may commence a new action or suit from time to time, within a year after such judgment reversed or given against the plaintiff as aforesaid, and not after.

If judgment be given for the plaintiff and reversed, he may commence a new action within one year.

And be it further enacted, That in all Actions of Trespass *Quare clausum fregits*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim in his their plea to make any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence or envoluntary, the Defendant or Defendants shall be admitted to plead a Disclaimer, and that the trespass was by negligence or involuntary, and a tender or offer of sufficient amends for such trespass, before the action brought, whereupon or upon some of them, the Plaintiff or

Where a disclaimer shall be allowed.

Plaintiffs shall be inforced to join issue; and if the said issue be found for the Defendant or Defendants, or if the Plaintiff or Plaintiffs shall be nonsuited, the Plaintiff or Plaintiffs shall be clearly barred from the said action or actions, and all other suit concerning the same.

In actions of slander where the damages are found under forty shillings the cost shall be the same.

And Be It Further Enacted, That in all actions upon the case for slanderous words, to be sued or prosecuted by any person or Persons in any Court within this Province, after the said twenty-fifth of April next, if the jury upon triall of the issue in such action, or the jury that shall enquire of the damages, do find or assess the damages under forty shillings, then the Plaintiff or Plaintiffs in such action shall have and recover only so much costs as the damages so given or assessed do amount unto, without any further increase of the same; any law or usage to the contrary notwithstanding.

Provisions for persons under age, &c., having cause of action.

Provided nevertheless, That if any person or persons, who is or shall be entitled to any such action of trespass, detinue, trover, replevin, actions of account, debt actions for trespass, for assault, menace, battery, wounding or imprisonment, actions upon the case for words, be, or at the time of any cause of such action, given or accrued, fallen or come, shall be, within the age of twenty-one years, *feme covert*, *non compus mentis*, imprisoned or beyond sea, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are hereby before limited, after their coming to, or being of full age, discoverture, of sound memory, at large, or returning into this province as other persons.

Passed March 27th 1713.

Recorded Law Book A, Vol. 2. p. 71.

AN ACT

For Establishing Orphans-Courts.

Whereas by certain Laws of this province now in force, several matters of great importance are directed to be done by the Orphans Courts, which being discontinued by the repeal of former law of courts, and not hitherto revived, nor effectually supplied by another law, divers orphans and persons concerned for them, or intrusted with their estates, labour under great inconveniencies; *Be it therefore Enacted* by Charles Gookin, Esquire, by the Queen's Royall approbation Lieutenant Governour under William Penn, Esquire, true and absolute proprietary and Governour in chief, of the province of Pensilvania, by and with the advice and consent of the freemen of the said province in General Assembly met, and by Authority of the same, That the Justices of the Court of Generall Quarter-Sessions of the Peace in each county of this province, or so many of them as are or shall be from

Justices of the court of quarter sessions shall hold the orphans' court.

time to time enabled to hold those courts, shall have full power, and are hereby empowered in the same week that they are or shall be by law directed to hold the same courts, or at such other times as they shall see occasion, to hold and keep a Court of Record in each of the said counties; which shall be styled, The Orphans Court, and to award process, and cause to come before them, all and every such person or persons, who as guardians, trustees, tutors, executors, adminastrators, or otherwise, are or shall be entrusted with or anywise accountable for any lands, tenements Goods, chattles or estate belonging or which shall belong to any orphan or person under Age, and cause them to make and exhibit within a reasonable time, true and perfect inventories & Accounts of the said estates; and to cause and oblige the Register-General, or such person or persons as for the time being shall have the power of probates of wills and granting letters of administration in this province, or their deputies upon application made in that behalf, to bring or transmit into the said Orphans Court true copies or duplicates of all such bonds, inventories, Accounts actings and proceedings whatsoever now or hereafter remaining or being in their respective offices, or elsewhere within the limits of their authority, as do or shall concern or relate to the said estates, or any of them; and to order the payment of such reasonable fees for the said copies, and for all other charges, trouble and attendence which any officer or other person shall necessarily be put upon in the execution of this act, as they shall think equitable and just, And if upon hearing or examination thereof it appears to the Justices of the said court that any of the said officers have misbehaved themselves to the prejudice of any minor, or others concerned for them as afores[a], the said Justices are hereby required to certify the same accordingly, which shall be good evidence for the party grieved to recover his damages at comon law.

Their powers and duties.

And where any letters of administration shall be granted, and no bond with Sureties given as the law in that case requires, such letters of administration shall be and are hereby declared to be void and of none effect, and that the officer or person that grants the same, and his sureties, shall be, *ipso facto*, liable to pay all such damages as shall accure to any person or persons by occasion of granting such administration. And the party to whom the same shall be so granted, may be sued as executor in his own wrong, and shall be so taken and deemed in any suit to be brought against him for or by reason of his said administration, *Or* if, upon such Examinacon, it appeares that any of the said officers have not taken sufficient Sureties, where the Administrators may not be of Ability to answer or make good the value of what the Decedents estate doth or shall amount to, THEN the said Justice of the Orphans Court are hereby required and empowered to cause all such administrators to give better security to the Register-General, by Bonds, in manner and form as law prescribes and under such penalties, and with such sureties as the said Justices, after they have heard the objections of creditors or persons concerned (if any such be made

Letters of administration without giving bond and sureties, are void.

Where the security appears to the court insufficient, the administration shall be compelled to give better.

sitting the Court) shall approve of. And if it appears that any of the said Administrators have embeazelled, wasted or misapplied or suffered so to be, any part of the Decedent's estates, or shall neglect or refuse to give bonds, with sureties as aforesaid then, and in every such case, the said Justices shall forthwith, by their Sentence, revoke or repeal the letters of Administration Granted them, and thereupon the said Register-General, or other person then impowered to grant administrations as aforesaid where such occasion happens, are hereby required to grant letters of administration to such person or persons (having right thereunto) as will give bonds in manner and form aforesaid, who may have their actions of trover or detinue for such goods or chattles as come to the possession of the former Administrator, and shall be detained, wasted, embeazelled or misapplied by any of them, and no satisfaction made for the same.

In case minors estates be in danger, &c., the orphans court shall cause such to give security.

And be it further enacted, That when any complaint is made to any of the said justices that an Executrix, having minors of her own, or being concerned for others, is married, or like to be espoused to another husband, without securing the minors portions or estates, or that an executor, or other person, having the care and trust of minors estates, is like to prove insolvent, or shall refuse or neglect to exhibit true and perfect Inventories, or give full and just Accounts of the said Estates come to their hands or knowledge, then and in every such case the same Justices are hereby required forthwith to call an Orphans Court; who shall all and every such Executors and Trustees, as also such Guardians or Tutors of Orphans or Minions as have been formerly appointed, or shall at any time hereafter be appointed by the said court, to give security to the Orphans or Minors, by mortgage or bonds, in such sums, and with such sureties as the said Courts shall think reasonable; conditioned for the performance of their respective trusts, and for the true payment or delivery to and for the use and behoof of such Orphans as they are concerned for (or such as shall legally represent them) the legacies, portions, shares and Dividends of Estates, reall and personall belonging to such Orphans or Minors, so far as they have assetts, as also for their maintenance and education, as the said Court shall think fit to order, for the benefit and best advantage of such Orphans, as is usual in such cases.

Minors money may be put to interest.

And be it further Enacted That any of the said Executors, Administrators, guardians or trustees, may by the leave and direction of the Orphans Court, put out their Minors money to interest, upon such security as the said court shall allow of; and if such security so taken *bonafide*, and without fraud, shall happen to prove insufficient, it shall be the Minor's loss, but if no person who may be willing to take the said money at interest, (with such security) can be found by the persons so as aforesaid concerned for the Minors, nor by any others, then the said executors administrators, guardians or trustees, shall, in such cases be responsible for the principal money only until it can be put out at interest aforesaid,

Provided, Always, That the day of payment of the money

so to be put out to intrest, at any one time, shall not exceed twelve months from the date of obligation, or other security given for the same, and so *toties quoties*, when and so often as the said money shall be paid in or come to the Hands of the said Executors, guardians or trustees. Not exceeding twelve months at one time.

Provided Also, That no Execut^rs, administrators or guardians, shall be liable to pay interest but for the surplusage of the decedents estate remaining in their hands or power, and belonging to the minors, when the accounts of their administration are or ought to be settled and adjusted before the said Orphans Courts or Register General respectively.

And be it further Enacted, That the Justices of the said Orphans Court in the said respective Counties, shall by vertue of this act, have full power and authority to exercise all the powers, authorities and Jurisdictions granted or mentioned, or intended to be granted to the Orphans Court, in and by a law of this province, Intitled, An act for better settling of Intestates Estates, and to do execute and perform all such matters and things as the Orphans Court in the said act, or in any other act or law of this province, mentioned, might or ought or have done or performed, according to the true intent and meaning thereof; with power also to admit Orphans or Minors, when, and as often as there may be occasion, to make choice of guardians or tutors, and to appoint guardians, next friends or tutors, over such as the said Court shall judge too young or uncapable, according to the rules of the common law, to make choice themselves; and at the instance and request of the said Executors, Administrators, guardians or tutors, to order and direct the binding or putting out of Minor Apprentices to trades, husbandry, or other imployments as shall be thought fit. And that all guardians and *prochein amis*, which shall be appointed by any of the said Orphans Courts, shall be allowed and received, without further admittance, to prosecute and defend all actions and suits relating to the Orphans or Minors, as the case may require, in any Court or Courts of this province. Farther authority of the court.

And if any person or persons, being duly summoned to appear in any of the said Orphans Courts ten days before the time appointed for their appearance, shall make default, the Justices may send their attachments for contempts, and may force obedience to their warrants, sentences and orders concerning any matter or thing cognizable in the same Courts, by imprisoment of body, or sequestration of lands or goods, as fully as any Court of equity may or can do. Persons summoned and not appearing.

Provided always, that if any person or persons shall be agrieved with any Definitive Sentence or Judgment of the said Orphans Court, it shall be Lawfull for them to appeall from the same to the Supreme Court; which appeall, upon Security given, as is usuall in such Cases, shall be Granted accordingly. Appeal to the supreme court.

And if any of the said Executors, Administrators, Guardians or Trustees did or shall receive and give Discharges for any sums of money, debts, rents, or duties belonging to any Orphan or Minor for whom they were or are intrusted, *It Is hereby Declared and Enacted*, That all such Discharges or Discharges for money, &c., by executors, &c., are binding to the orphans.

Receipts shall be binding to and upon the Orphan or Minor when he or she attains to full age, and shall be most effectuall in Law to discharge the person or persons that take the same.

Bonds how to be cancelled.

And when any of the said Minors attain to their full age, and the person or persons so as aforesaid intrusted or concerned for them having rendered their accounts to the Orphans Court according to the direction of this and the said other acts, and paid the Minor their full due, then such Minors shall acknowledge satisfaction in the said Court: But in case any of them refuse so to do, then the said Court shall certify how the said persons concerned have accounted and paid; which shall be a sufficient discharge to y^{e} Guardians or Tutors, and to the trustees, Executors or Administrators who shall so account and pay, and thereupon all Bonds entered into for payment of such Orphans portions shall be delivered up and cancelled.

What persons may have the charge of orphan or minors.

Provided always, And *be it further Enacted*, That none of the said Orphans Courts shall have any power to order or commit the tuition or Guardianship of any orphans or Minors, or bind them apprentices to any person or persons whose religious persuasion shall be different from what the parents of such Orphan or Minor professed at the time of their decease, or against the Minors own mind or inclination, so far as he or she has discretion and capacity to express or signify the same; or to persons that are not of good repute, so as others of good creditt, and of y^{e} same persuasion may or can be found.

Due regard to be had to wills, &c

Provided also, That y^{e} Justices of the said Courts, and all others concerned in the execution of this Act, shall have due regard to the direction of all last wills, and to the true intent and meaning of the testators, in all matters and things that shall be brought before them concerning the same.

Bonds directed to be given by any law, &c., to be for the use of the persons concerned, &c.

And be it further Enacted, That all such bonds or obligations as are by this Act, or by any other law of this province, directed and required to be given to the Register Generall, and all such bonds as by any law are directed to be given to y^{e} Register Generall, or by any other officers or persons in office whatsoever in this province, for the due execution of his or their respective offices or imployments, are hereby de- to be to and for the use of, and in trust for the person or persons concerned, and that the Benefitt thereof shall be extended from time to time, for the relief and advantage of the party grieved by the Misfeazance or Nonfeazance of the officers that did or shall give the same.

And that when any of y^{e} said Bones shall be put in suit, and Judgment thereupon obtained, the Judgment shall remain in the same nature the Bonds were, and that no execution issued out thereupon before the party grieved shall by writt of *Scire facias*, summon the person or persons against whom the said Judgment is obtained, to appear and shew cause why Execution shall not issue upon the said Judgment, and if the party grieved shall prove what damages he sustained, and thereupon a verdict be found for him, the Court of Common pleas where such suit is, shall award Execution for so much as the Jury shall then find, with costs, and no

more; and the former Judgment is hereby declared still to remain cautionary for the satisfaction of such others as shall legally prove themselves damnified, and recover their damages in manner aforesaid.

The register general, &c., required to give copies of such bonds, &c.

And the said Register Generall, and all others in whose hands the said Bonds shall be in deposited or lodged, are hereby required to give to any person injured, that requests the same, a true copy of any of the said Bonds, he paying three shillings for the same, and to produce the originall in Court, upon any tryall that shall be had for the breach of any of them, if required by the Court; and if the person in whose hands the said Bond shall be lodged or come, shall refuse or delay to give Copies thereof, and produce the originall in Court as aforesaid, he or they shall forfiet and pay to y^e^ party grieved treble damages, to be recovered against the officer that gave such Bonds, or his sureties, by action of debt, bill, plaint or information, in any Court in this province, where no essoin, protection or wager of Law, or any more than one imparlance shall be allowed.

Passed March 27, 1713.

Recorded Law Book A, Vol., 2., p. 73.

GOV. GOOKINS' ORDINANCE.

By the Honorable Coll. Charles Gookin by ye Queen's Royal approbation Lieutenant Governour of ye Province of Pensilvania & Counties of New Castle, Kent and Sussex upon Delaware,

Repeal of act of 1710.

Whereas ye Queens most excellent majesty By her order in Councill held at St. James's the twentieth day of February in ye year one thousand seven hundred & thirteen, was pleased to repeal & Declare void and of none effect severall Laws formerly enacted in this government and amongst others one certain Law Intituled, An act for establishing Courts of Judicature in this Province upon ye publication of which order all ye severall Courts that were founded upon ye sd. act became void and discontinued, and there upon an Intire failure in ye administration of Justice in this Province has ensued, for Remidy whereof, and by vertue of ye Royall Letters Patents of King Charles ye second to ye Proprietor and Governour and ye powers to me derived by ye same, I have by ye advice of ye Councill thought fit to appoint and Establish, and do by these presents, ordain and Declare to be appointed and Established for ye Publick Administration of Justice in ye Said Province ye severall courts of Judicature herein after . . . That is to say: That there shall be holden and kept a Court of Record, twice in every year in every County of this Province, to wit: At Philadelphia for ye City and County of Philadelphia ye tenth day of Aprill and ye twenty-fourth day of September; at Bristol, for ye County of Bucks, ye fourteenth day of Aprill and ye twenty-eighth day of September; and at Chester for ye county

Supreme court erected. Three judges shall be appointed.

of Chester on ye eighteenth day of Aprill, and ye second day of October; which said Court shall be stiled The Supream Court of Pensilvania, and there shall be three persons of known Integrity and ability commissionated by ye Governour or his Lievtenant from time to time by several Distinct Patents or Commissions under ye Great Seal of this Province to be Judges of ye sd. Court; one of whom shall be distinguished in his Comission by ye name of Chief Justice, which said Judges or any one of them shall have

One may hold court. Jurisdictions and powers.

full power to hold ye said Supream Courts, and therein to hear and determine, all Pleas, Plaints and Causes, which shall be removed or brought there from ye General Quarter Sessions of ye Peace, or Court of Comon Pleas, or from ye Sessions or Courts of Record held for ye city of Philadelphia or from any other Court or Courts of Record within ye sd. respective Counties, by Writs of Habeas Corpus, Certiorari, Writs of Error, Prohibitions, Injunctions, Audita Querela, mandamis or any other remedial or mandatory writ or writs of what nature or kind soever. And to Examine and Correct all, and all manner of Errors, of ye Justices and Magistrates of this Province in their Judgments, Process and Proceedings, as well in all Pleas of ye Crown, as in all pleas, real, Personall and mixt; and thereupon to Reverse or affirm ye sd. judgments as ye law doth or shall direct. And also to Examine, Correct and Punish, ye Contempts, Omissions, Neglects, Favours, Corruptions and Defaults of all Justices of the Peace, Sheriffs, Coroners, Clerks, and other officers, within the said Respective Counties and generally, shall minister comon Justice to all persons Concerning the p'm'ises, according to Law, as fully and amply to all Intents and purposes whatsoever, as the Justices of ye Court of Queens Bench, Comon Pleas & Exchequer at Westminter may or can do.

How the writs shall be granted and bear test.

All which said writts and every of them shall be granted of course, and shall have Issue out of the Office of Prothonotary of ye sd Court, And shall be made in the name or stile of the Queen, her Heirs and Successors, and bear Test in the name of the Chief Justice for the time being, but if he be Plaintiff or Defendant then in the name of one of ye other Justices, and shall be sealed with the Provincial Seal, or the seal of the s[d] Province. And I do further ordain, by the authority aforesaid, That there shall a Court of Equity held by ye Judges of ye Respective Supream Courts in every County of this Province. Which sd. Judges or any one of them, within the limits of their Commissions, shall have full Power and are hereby Impowered and authorized to hear and Decree all such matters of Equity as by appeals from the Respective Inferior Courts shall Come before them, and all such matters of Equity as by appealls from the respective Inferior Courts shall come before them, and thereupon, to Revoke, make void, alter & Confirm, such Decrees, Sentences, acts or Proceedings of the s[d] Inferior Courts, relating thereto, and to make such Decrees and take such orders therein, as shall be agreeable to Equity and Justice, with full power by Legall and Due process to force obedience to their Decrees or Judg[ts].

Supreme court of equity shall be held in each county.

Powers and jurisdictions.

Quarter sessions four times a year in each county.

And I do further ordain by the authority afores[d], That there shall be a Court stiled The Generall Quarter Sessions of Ye Peace and Goal Delivery, held and kept four times in every year in every County of this Province. That is to say: at Philadelphia, for the County of Philadelphia, the first Monday in March, June, September & December; at Bristoll, for the County of Bucks, ye third Thursday of every of the same months; and at Chester, for ye County of Chester, on the last Tuesday on ye months of May, August, November & February.

Justices shall be commissioned.

And there shall be a competant number of Justices in every of the sd. counties, nominated, appointed and authorized by the Governour or his Lievtenant for the time being, by Comission under the Broad Seal of ye sd. Province, which sd. Justices or any three of them, shall and may, hold the sd. Generall Quarter Sessions of the peace of our Lady ye Queen, her heirs and successors, and all acts and statutes made and to be made for the conserva'con on the peace & for ye quiet rule & government in the Respective Counties for which they shall be so commissionated, according as those acts and statutes do and shall direct, and to chastize and punish all persons offending against those acts and statutes. With full power and authority to and for the said Justices to award process, bind to the peace and good behaviour; and to hear, Try & Determine, all, and all manner of matters, Causes & things whatsoever, (Treason, Murthers and all such other crimes as by the Laws of this Province shall be made felons of Death, excepted) as near as Conveniently may be to the Laws of Great Britain, and according to the Laws and usages of this Province. With full power hold speciall and private sessions, when and as often as occasion shall Require, as any Justices of Assize, Justices of Oyer & Terminer, or Goal Delivery, or Justices of the peace in Great Britain in and out of their sessions, may or can do.

Three a quorum.

Capital offences excepted.

May hold private sessions.

Court of common pleas shall be held four times a year in each county.

And I do further ordain by the authority aforesaid, That the sd. Justices of the sd. Court of Generall Quarter Sessions of the peace & Goal Delivery, in the respective Counties, or for which they are or shall be commissionated as aforesaid, shall hold and keep a Court of Record in every County, which shall be stiled The Court of Common Pleas to be held four times in every year, at the Place where ye sd. Quarter Sessions of the peace shall be respectively keep, as aforesaid, That is to say, at Philadelphia for ye City and County of Philadelphia on the Wednesday in ye same week in which ye sd Quarter Sessions of ye Peace is held; at Bristol for the County of Bucks, ye day following ye sd Quarter Sessions of ye Peace is appointed to be held; and at Chester, for ye County of Chester, ye day following ye said Quarter Sessions of ye peace appointed to be held.

Three a quorum.

Which said Justices or any three of them within the limits of their commissions, shall hold please of assize, scire-facias, Replevin* . . . . . & Determine all, and all manner of Pleas, actions, suits & causes, civil Personall,

* Obliteration caused by acid in ink eating the paper.

Powers and jurisdictions.

Real & mixt, as near as conveniently may be to ye Rules of ye Common Laws, and to ye course of Practice of the Court of Comon Pleas of Westminster, and according to ye Laws & Constitutions of this Province.

Process to issue out of prothonotary's office.

And that all writts and Process upon the Please, Plaints and actions afore^{sd} shall as heretofore, Issue out of the office of the Prothonotary of the sd. respective counties, under ye Respective county seals* . . . . . all returns shall be made.

Return days for original writs.

And I do further ordain by the authority aforesaid, that that day six weeks in which ye sd. Court of Comon Pleas are begun to be held for the City and County of Philadelphia, shall be a Return Day for all Originall & Judicall writts and Process, at which day and so from day to day ye said Justices may hear and determine issues in Law and give jud^{ms} upon writts of Enquiry* . . . . . of declarations, Pleas & other pleadings, and also may do and perform any other matter, cause or thing whatsover, as might or could be done in ye sd Quarterly Court of Comon Pleas Tryals of fact by juries only excepted.

County courts of equity.

And I do further ordain by ye authority afor^{sd} that there shall be a Court of Equity held by ye Justices of ye s^{d} respective County Courts of Common Pleas, four times a year at ye respective places & as near ye s^{d} times as ye s^{d} Courts of Common Pleas are held in every County of this Province,

Register of the court.

and that ye Prothonotary of ye Comon Please shall be ye Register of ye sd Court of Equity in every County.

Three justices a quorum.

Which sd. Justices or any three of them within ye limits of their Commissions, shall have full power and are hereby Impowered and authorized to hear & decree all such matters and causes of Equity as shall come before them in ye sd. Courts, with power to make Orders and award all manner of

Powers and jurisdictions.

process, and do all other things necessary for bringing causes to hearing, and to force obedience to their Decrees, as ye High Court of Chancery in Great Britain may or can do.

Each court shall make its own rules and orders.

And for ye better executing of ye Powers & Jurisdictions hereby enacted or Intended, it may be lawfull to and for ye sd. Justices of ye sd. respective Courts to make & publish all and every such Reasonable Rules & orders as may be fitt & necessary to regulate ye offices and ascertain ye practice of ye Courts they belong to.

Oyer and Terminer.

And I do further ordain that speciall Comissions of Oyer & Terminer & Goal Delivery may be granted into any ye respective Countys of this Province for ye hearing, Trying & Determining of all High & Capital offences, where ye life of any person shall or may be brought in question.

Special courts for departers out of the Province.

And I do further ordain, that if any person or persons being Defendant or Defendants in any suit or action, who shall by reason of their Speedy Departure out of this Province, require a more speedy determination in ye premises than can be had in ye s^{d} Court of Common Pleas, upon application to ye Justices of ye s^{d} Court they shall grant to such Defendants Speciall Courts and proceed to hear and de-

* Obliterations caused by acid in ink eating the paper.

termine ye premises according to ye course & practice of ye s[d] Courts of Please.

Continuation of courts.

And I do further ordain that ye justices of ye said respective Courts and every of them, may adjourn ye s[d] Courts De. Die in Diem until ye business of ye sd. Courts be compleat & ended.

And that the Justices of ye Court of Generall Quarter Sessions of the Peace & Goal Delivery, may adjourn their Courts to such other time as to them shall seem meet and convenient.

Given under my hand & Great Seal of ye said Province, at Philadelphia ye twentieth day of July in ye thirteenth year of ye Reign of our Soveraign Lady Ann by the grace of God of Great Britain, France & Ireland, Queen Defender of the Faith etc.

Annoq Domi 1714.

Recorded ye 21[st] day of July 1714 Patent Book A. No. 5—p 53 &c.

AN ACT

Directing appeals to Great Britain.

Persons finding themselves aggrieved by judgment, &c., of the supreme or admiralty courts, may appeal to Great Britain. If the judgment be affirmed, &c., the appellant shall pay all damages, &c.

Be It Enacted by Charles Gookin, Esquire, by the Kings Royal approbation Lieutenant Governour under William Penn Esq: Proprietary and Governour in chief of the province of Pennsilvania, by and with the advice and consent of the freemen of the said province in General Assembly met, and by the authority of the same, That no judgment, sentence or decree of any of the Supreme courts, or courts of Admirality in this province, shall be so final but that the party grieved therewith may appeal to the King, his Heirs and successors so that such appellant does deposite the sum or sums recovered or decreed against him, or become bound with one or more sufficient sureties, to the party for whom such judgment or sentence is given by recognizance in double the sum adjudged to be recovered by the sentence, decree or judgment of the said courts, or any of them, with condition, that the person or persons appealing shall and will, within eighteen months after prosecute his or their appeal in Great Britain with effect, and if the judgment or decree be affirmed there, or that the appellant fails in the prosecution of his said appeal within the time aforesaid, then the said appellant, or party in whose name the appeal is made shall pay all the debts, damages and costs adjudged upon the former judgment, sentence or decree, and all such costs and damages as shall be awarded for delaying execution; or they the sureties shall do the same for him, whereto the judges, before whom the recognizance is given, shall subscribe their hands, and then execution shall stay, and the appellant, if taken in execution, shall be discharged.

Passed May 28th 1715

Recorded law book A. Vol. 2. p. 89.

AN ACT

For establishing the courts of Generall Quarter Sessions in this province.

Courts of quarter sessions shall be held four times a year in each county.

Be it Enacted by Charles Gookin, Esquire, by the Royall approbation Lievtenant Governour, under William Penn, Esquire, Proprietary and Governour in Chief of the province of pensilvania, By and with the advice & consent of the ffreemen of the s[d] province in Generall Assembly met, and by the authority of the same, That there shall be a court Stiled the Generall Quarter Sessions of the peace and Gaol Delivery, holden & kept four times in every year, in each County of this province, (viz[t]) at philadelphia, on y[e] first second day of the week called Monday, in the Months called March, June, September and December; At Bristol, for y[e] county of Bucks, on the Eleventh day following inclusive, in every of the same Months; And at Chester, for the county of Chester, on the last third day of the week called Tuesday, in the Months called May, August, November, and ffebruary.

The governor shall commission the justices.

Three a quorum.

And that there shall be a competent Number of Justices in every of the said Counties, Nominated and authorized by the Governour, or Lievtenant Governour for the time being by Comission under y[e] Broad Seal of this province; which s[d] Justices or any three of them, according to y[e] Tenor & Directions of their comission, shall & may hold the s[d] Generall Sessions of the peace & Gaol Delivery, And each of them shall keep & cause to be kept y[e] peace of our Lord the King his heirs and Successors and all acts & Statutes made & to be made for the conservation of the peace, and for the Quiet Rule and Governm[t] in the respective counties where they shall be comissionated, as afores[d], and according as those acts do or shall direct, to chastize and punish all persons offending against the Comon Law, or the form of those acts and Statutes (Excepting in cases of Treasons Murthers and such other crimes as are or shall by y[e] Laws of this province be made ffelonies of Death) by ffines, Ransomes, Amerciam[ts], fforfeitures, or otherwise, and to comit to prison, Let to Bail, & Discharge offenders, of or for offences or Crimes Cognizable before them y[e] s[d] Justices; and to take Recognizances and obligacons in such Cases as the Law doth or shall direct; and to Grant & Issue forth all & all manner of writts, precepts and process, which by Law are, or ought to be awarded or Issued, in or upon y[e] procedure of any of the offences, Matters, Causes & things, hereby made cognizable in the s[d] Courts of Generall Quarter Sessions & Gaol Delivery; and Generally to Minister Comon Justice, & to Exercise hear Determine & Execute all things within the s[d] respective Counties, & Limits of their comissions & authorities, as near as conveniently may be to y[e] Laws of Great-Britain, and according to y[e] Laws of this province, as fully & effectually as any justices of assize, Justices of Oyer & Terminer, or of Gaol Delivery, or Justices of the peace may or can do. Provided always That if any presentment shall

Powers and jurisdictions.

Capital offences excepted.

be made in y^e^ s^d^ Sessions of the peace for or concerning any crimes or offences which by Law may be Inquired of, but not heard and Determined in the s^d^ Sessions of the peace, Then & in every such case all such presentm^ts^ or Inquisitions of those offences, shall be set down in writing, Indented & Sealed by the Grand Inquest, one part to remain with them, and the other part with the Justices of the peace, in order to be Delivered by one of them, to y^e^ Justices of the Supreme Court of Oyer & Terminer at their next succeeding Court, There to be proceeded upon as y^e^ Law in such cases shall Direct *And be it further Enacted* That y^e^ s^d^ Justices of the peace, or any three of them, may pursuant to their s^d^ comissions, hold speciall & private Sessions, when & as often as occasion shall require; and that y^e^ s^d^ Justices and every of them shall have full power and authority, in, or out of Sessions, to take all manner of Recognizances and obliga'cons, as any Justices of the peace of Great Britain, may, can, or usually do, all which said Recognizances for the peace, Behaviour, or for appearance, which shall be taken by any of the s^d^ Justices out of Sessions shall be certifyed into their s^d^ Generall Sessions of the peace, to be holden next after the taking thereof: where y^e^ Justices may by Vertue of this act Discharge and cancel any of those Recognizances as they shall see meet, and every Recognizance taken before any of them for Suspicions of any manner of ffelony or other crime, not Tryable in y^e^ s^d^ Court of Generall Quarter Sessions of the peace and Gaol Delivery shall be certifyed before the Justices of the Supreme Court of Oyer and Terminer, at their next succeeding court, to be holden next after the taking thereof, without concealment, detaining or Imbezeling the same. But in case any person or persons shall forfeit his or their recognizances of the peace, Behaviour or appearance, for any cause whatsoever, then the s^d^ Recognizance so fforfeited, with the Record of Default or cause of fforfeiture shall be sent & Certifyed without Delay, by the Justices of the peace into y^e^ s^d^ Supreme Court as y^e^ Case may require; That thence process may Issue out against the parties according to Law, all which fforfeitures shall be Levyed by y^e^ proper officer and go to y^e^ Governour. And be it further enacted, That all ffines & amerciam^ts^ which shall be laid before the Justices of the s^d^ Courts of Generall Quarter Sessions of the peace, and Gaol Delivery, shall be Taxed, Affered and set truely, according to y^e^ Quallity of the offence without partiality or affection, and shall be yearly Estreated by y^e^ Clerks of the s^d^ Courts respectively, into the said Supreme Court, To the intent that process from Thence, may be awarded to the Sheriff of every county as y^e^ Case may require, for Levying such of their Fines & amerciam^ts^ as shall be unpaid to y^e^ uses for which they are. or shall be appropriated. *Provided always*, That y^e^ said Courts of the Quarter Sessions of the peace, may be kept and continued for the space of three days, in the county of Philadelphia, at any of the times herein before appointed to hold & keep y^e^ same courts and sessions there; and for the space of Two days, in either of the s^d^ counties of Bucks,

Presentments which may be inquired of, but not tried, shall be certified to the supreme court of oyer and terminer.

Justices may hold private sessions with power to take recognizances out of session, which shall be certified into the next quarter sessions.

Forfeited recognizances.

Fines to be estreated into the supreme court.

How long the session may be continued.

and Chester respectively, at any of the s^{d} times herein before appointed to hold & keep y^{e} s^{d} Courts & Sessions there, in manner afores^{d}. *Provided also*, That Nothing herein contained shall Deprive, or abridge the Mayor, Recorder or Aldermen, of the city of philadelphia, of any powers, privileges, Jurisdictions or ffranchises, Granted them by charter, or the Laws of this province.

The powers of the corporation of Philadelphia shall not be abridged.

Writs granted in one county shall operate in another.

And to the end that persons Indicted or outlawed for ffelonies, or other offenses, in one county or Town corporate, who Dwell, Remove, or be Received in another county, or Town corporate, may be brought to Justice, *Be it further Enacted*, That y^{e} s^{d} Justices or any of them, shall & may Direct their writts, or precepts, to all or any the Sheriffs, or other officers of the s^{d} counties, or Towns corporate within this province, where Need shall be to take such persons Indicted or outlawed. And that it shall & may be lawfull to & for the s^{d} Justices and every of them, to Issue forth Subpœnas and other Warrants, under their respective hands & Seals of the county, into any county or place of this province, for Sum'oning or bringing any person or persons to Give Evidence in & upon any Matter or cause whatsoever, now or hereafter Examinable, or in any Tryable by or before them or any of them, under such pains and penalties, as subpena's or warrants of that kind usually are or shall be Granted or awarded. [* * * * *]

Writs of error shall be granted, returnable to the supreme court.

And be it further Enacted by y' authority afores', That if any person or persons shall find him or themselves aggrieved with the Judgm^{t} of any of the said courts of Generall Quarter Sessions of the peace, Gaol Delivery, or any other courts of Record, within this province; It shall and may be lawfull to and for the party or parties so agrieved, to have his or their Writt or Writts of Error, which shall be Granted them of Course, in manner as other Writts of Error are to be Granted, and made Returnable to y^{e} s^{d} Supreme court of this province. Provided always that when any Writt of Error shall be Granted upon any Judgm^{t} given, or to be given, for y^{e} s^{d} City of Philadelphia, the Mayor, Recorder & aldermen of the s^{d} City of Philadelphia, & their successors, or any of them, shall not be Compelled upon any of the s^{d} writts or any other writt or writts directed to them or any of them, to remove send or certify into y^{e} s^{d} Supreme Court or elsewhere, any of the Indictm^{ts} or presentments, taken or to be taken before them, or the record of the Judgm^{ts} and proceedings upon any such Indictments or presentments, But only the Tenors or Transcripts of the said Records, under their Com'on Seal; and after such Judgm^{ts} are Reversed or affirmed, or Causes lawfully Removed from the s^{d} City Courts are Tryed in y^{e} s^{d} Supreme Court; It shall be lawfull for the Mayor, Recorder and Aldermen & their Successors, to proceed to Execution or otherwise, as shall appurtain, according to Law and y^{e} Direction of the Judges. *And be it further Enacted* by y^{e} authority afores^{d}; That y^{e} s^{d} Justices shall have power in their respective Courts of Quarter Sessions in the s^{d} City, and Countys respectively, to set such reasonable prices on all Liquors Retailed in publick houses,

Of proceedings of the city sessions only the tenor, &c., shall be certified into the supreme court.

Justices shall fix prices of certain commodities.

and provender for horses, in publick stables, from time to time, as they shall see fit, under the like penalties as in such cases are Enacted by the Laws and statutes of Great Britain.

Passed May 28th 1715.

Recorded Law Book A, Vol. 2, p. 90.

Repealed in Council July 21, 1719.

AN ACT

For erecting a Supreme or provincial Court-of Law & Equity in this province.

Be it Enacted, by Charles Gookin, Esquire, by y^e^ Royal Approbation Lievtenant Governour under William Penn, Esquire, proprietary and Governour in Chief of the province of Pensilvania, By & with the advice & Consent of the ffreemen of the s^d^ province in General Assembly met, and by the Authority of the same; That there shall be holden and kept a Court of Record Twice in every year in the City of Philadelphia, within y^e^ s^d^ province, (viz^t^) on the Tenth day of April, & Twenty fourth day of September; and if any of the s^d^ days happen to be on the ffirst day of the week, then on the next day following; which s^d^ Court shall be stiled & called, The Supreme Court of Pensilvania, and there shall be ffour persons of known Integrity and ability com'ission-ated by the Governour or his Lievtenant for the time being, by several Distinct patents or Com'issions under the Great Seal of this province, to be Judges of the s^d^ court, one of whom shall be distinguished in his com'ission by the Name of Chief Justice; and every of the s^d^ Justices shall have full power and authority by vertue of this act, when and as often as there may be occasion, to Issue forth Writts of habeas corpus, certiorari, Writts of Error, Prohibitions, Injunctions for staying proceedings at Law, or stoping of wast, Audita Querela, Mandamus's, and all Remedial & other Writts & process returnable to y^e^ s^d^ Court, & Grantable by the s^d^ Judges by vertue of their office in pursuance of the powers & authorities hereby given them. And that y^e^ s^d^ Judges or any Two of them, shall have power to hold the s^d^ court & therein to hear & Determine, all causes, Matters & things cognizable in y^e^ s^d^ court, both in Law and equity; And also to hear and Determine all & all manner of pleas, plaints & Causes, which shall be Removed or brought there from the respective General Quarter Sessions of y^e^ peace, & Courts of Com'on pleas, to be held for the respective counties of Philadelphia, Chester and Bucks; as also for y^e^ City of Philadelphia; or from any other court in this province, by vertue of any of the s^d^ writts; And, to Examine & Correct, all & all manner of Errors of Justices & Magistrates of this province, in their Judgm^ts^, process & proceedings in y^e^ s^d^ courts, as well as in all pleas of y^e^ crowne, as in all pleas, Real personal & Mixt, and thereupon to Reverse or Affirm

A supreme court shall be held twice a year at Philadelphia.

Four judges shall be commissioned.

Remedial writs, &c

Two a quorum.

Duties and jurisdictions of the judges.

y^e s^d Judgm^ts, as the Law doth or shall Direct; and also to Examine covict & punish, the contempts, omissions & neglects, ffavours, corruptons & Defaults, of all, or any of the Justices of the peace, Sheriffs, coroners, clerks & other officers, within y^e s^d respective counties. And also, shall award process for Levying as well of such ffines, fforfeitures & amerciam^ts as shall be Estreated into y^e s^d Supreme court, as of y^e ffines, fforfeitures & amerciam^ts which shall be Lost, Taxed or set there, & not paid to y^e Uses they are or shall be appropriated; and Generally shall Minister Justice to all persons, & exercise y^e Jurisdictions & powers hereby Granted, Concerning all & singular y^e pmisses according to Law, as fully & amply to all intents & purposes whatsoever as the Justices of the Courts of Kings Bench, Com'on pleas & Exchequer at Westminster, or any of them, may or can do.

A prothonotary shall be nominated by the court.

And that there shall be a fit person Nominated by y^e Judges of y^e s^d Supreme Court and Comisionated by y^e Govern^r to be prothonotary or Clerk of y^e s^d Supreme Court, who shall keep & duely Attend his office, at some convenient place in y^e City of philadelphia; & may be suspended, punished or amoved by y^e s^d court for Misdemeanours in his s^d office.

How the writs shall be granted and bear test.

And be it further enacted, That all the s^d writts be granted of course, and made in the Name & stile of the King, his heirs & successors, and shall bear Teste in y^e Name of y^e Chief Justice for y^e time being, But if he be plaintiff or defendant, in y^e Name of one of the other Justices, and shall be sealed with the Judicial seal of the s^d Court & made Returnable to the next Court after the Date of such writts. *Provided always* That none of the Judges of the said Supreme or provincial court, shall sit Judicially in any of the s^d Courts of comon pleas, Quarter Sessions, or any other Inferiour court in this province. *And be it further enacted* by y^e authority afores^d, That y^e s^d Judges of the supreme court are hereby also authorized & enabled to hold plea in Equity, by Bill, appeal, petition or suit, to be brought or exhibited in y^e s^d court, by for or against any person or persons whatsoever, for any Discovery or other matters Relievable in Equity, and thereupon to Issue out process of subpena or Distringas, and all other usual process for compelling y^e parties defendants in such suits, to appear put in their answers and make their Defences to such Bills, appeals, petitions or suits; and for the parties to proceed therein & thereupon, according to such Rules or Orders, & in such manner & form, as the Courts of Chancery & Exchequer in Great Britain, have used to proceed by. And upon Issues Joyned in any of the s^d causes or suits in Equity, y^e s^d Court is to Cause Witnesses to be Examined, if Desired on either side, by Comissions to be awarded for that purpose or by sworn or attested Examiners; and after the publication of the Depositions of the Witnesses, to proceed to the hearing of the s^d causes, and upon proofs & Evidences therein or thereupon, or upon Bill & answer, where no witnesses shall be Examined or proofs made, to make such orders and Decrees, either for y^e Relief of the plaintiffs or for the Directing any Issue or Issues at Law to be Tryed for y^e Informa'con of the court,

Shall hold pleas in equity, in accordance with the rules of chancery courts in Great Britain.

Examiners shall be appointed.

Manner of proceeding.

or for y^e^ Dismissing of the s^d^ plaintiffs Bills, or otherwise as y^e^ s^d^ Court shall see just & Reasonable; and as is or hath been used in y^e^ s^d^ Courts of chancery or Exchequer in Great Britain. And y^e^ s^d^ court shall award such process, for the inforcing y^e^ parties in y^e^ s^d^ suits to yield obedience to such orders or Decrees, as shall be made in y^e^ s^d^ causes; and in case of Non-performance thereof, or Disobedience thereto, y^e^ s^d^ Court shall award all such process of contempt against the persons and Estates of him or them that shall be in contempt, or refuse obedience to any of the s^d^ orders & Decrees; and make and Execute like process, Orders and proceedings thereupon, as are and hath been used in like cases, in or by the s^d^ Courts of Chancery or Exchequer in Great Britain. And that the prothonotary of the supreme court shall be Register of y^e^ s^d^ Court of Equity. *And be it further enacted* by the authority afores^d^, That all & singular y^e^ Indictm^ts^ & presentm^ts^, which now are, or hereafter shall be made or taken, for or concerning any Treasons, Murthers & such other Crimes, as are or shall (by the Laws of this province) be made Capital, or ffelonies of Death, which have been or shall be done or comitted, perpetrated or happen, within this province, shall be heard, Tryed and Determined, by and before the said provincial Judges or any Two of them, in the respective counties of this province where any of the s^d^ offences shall happen to be Com'itted; which s^d^ provincial Judges shall have power, & are hereby authorized and Impowered, from time to time, to Deliver y^e^ Gaols of all persons which now are, or hereafter shall be com'itted, for Treasons, Murders and such other crimes, as, by the Laws of this province, now are or hereafter shall be made capital or ffelonies of death, as afores^d^, and for that end, from time to time to Issue forth such Necessary precepts & process, and force obedience thereto, as Justices of assize, Justices of Oyer & Terminer, and of Gaol Delivery, may, or can do in the Realm of Great Britain. *Provided always:* That y^e^ Ffees due to y^e^ Judges and officers of the s^d^ Court for hearing & Determining any of the s^d^ capital offences for any thing done there, shall be double the ffees usually taken in y^e^ General Quarter Sessions held in any of the counties of this province, any thing herein, or in any other Law to the contrary Notwithstanding.

Prothonotary shall be the register in equity.

Judges shall deliver the jails of prisoners, held for treason, murder, &c.

Fees.

Passed May 28, 1715. Recorded Law Book A vol 2 p 109.
Repealed in Council July 21, 1719.

AN ACT

For Establishing y^e^ several courts of Com'on pleas in this province.

Be it Enacted by Charles Gookin, Esquire, by the Royal approbation, Lievtenant Governour under William Penn, Esquire, proprietary & Governour in Chief of the province of pensilvania, By & with the advice & consent of the freemen of the s^d^ province in General Assembly met, and by the authority of the same; That a compleat Number of persons shall be comissionated by y^e^ Governour or his Lievtenant, under the Broad Seal of this province, who shall hold & keep a court of Record in every county, which shall be called and stiled The County Court of Comon Pleas, & shall be holden four times in every year, at the places where y^e^ General Quarter Sessions shall be respectively kept, viz^t^): at Philadelphia, for the county & City of Philadelphia, on the day called the first Wednesday, next after y^e^ day appointed for the Quarter Sessions to begin on there, in y^e^ Months called March, June, September & December; at Bristol, for the county of Bucks, on y^e^ Ninth day following, inclusive, in every of the s^d^ Months; and at Chester, for y^e^ County of Chester, on the day called y^e^ last Tuesday, in y^e^ Months called May, August, November and ffebruary; which s^d^ Justices or any three of them, (according to y^e^ Tenure & Directions of their Com'issions,) shall hold pleas of assizes, scire facias, Replevins, and hear and Determine all, & all manner of pleas, actions, suits & causes, civil, personal, Real & Mixt, as near as Conveniently may be to the Rules of the Com'on Law, & to the course and practice of the Kings court of Com'on pleas at Westminster, and according to the Lawes & Constitutions of this province. *And be it further Enacted by y^e^* authority afores^d^; That every of the s^d^ Justices shall and are hereby Impowered to Grant, under the seal of the respective counties, Replevins, writts of Partition, writts of View, & all other writts & Process upon the s^d^ pleas and actions cognizable in y^e^ said respective courts, as occasion may require; Excepting the original process, which are to be Granted under y^e^ seals of the respective Justices. *And be it further Enacted;* That y^e^ s^d^ Justices of the s^d^ respective Courts shall and are hereby Impowered to Issue forth subpœnas under their respective hands, & seal of the Counties, into any county or place of this province, for sumoning or bringing any person or persons to Give Evidence in or upon the Tryal of any Matter or cause whatsoever, Depending before them or any of them, under such pains and penalties, as by the Rules of the Com'on Law, & Course & Practice of the Kings Courts at Westminster, are usually appointed.

And be it further Enacted, That upon any Judgment obtained in any of the said courts of this Province, and execution returned by the Sheriff or Coroner of the proper County where such Judgm^t^ was obtained, That the party is not to be found, or hath no Lands, or Tenem^ts^ Goods, or Chattles in that county, and thereupon it is Testifyed, That the party skulks, or lies hid, or hath Lands, Tenem^ts^ Goods or Chat-

County courts of common pleas shall be held four times a year.

Three Justices a quorum.

Jurisdictions.

How original process shall be granted.

Subpœnas granted in one county shall operate in another.

An *alias* execution may be granted, directed to the sheriff of

tles, in another County of this province, It shall & may be lawfull to & for the Court that Issued out such Execution, to Grant, and they are hereby required to Grant an alias Execution, with a Testatum, Directed to the Sheriff or Coroner of the county or place where such person lies hid, or where his Lands or Effects are, comanding him to Execute y^e^ same, according to the Tenure of such writt or writts, & make Return thereof to the Court of Com'on Pleas where such Recovery is had or Judgm^t^ Given. And if the Sheriff or Coroner, to whom any such writt or writts shall be Directed, shall Refuse or Neglect to Execute & Return y^e^ same accordingly, he shall be amerced in y^e^ court where he ought to Return it, and be lyable to the action of the party Grived: And y^e^ ameriam^ts^ shall be Truely & duely set according to the Quality of the offence & Estreated by the prothonotary of the respective courts of com'on pleas of this province, into the next succeeding supreme or provincial court in course, That thence process may Issue out against the Offenders for Levying such ffines & amerciam^ts^ as also be unpaid, to the uses for which they are or shall be appropriated. And be it further Enacted by the authority aforesaid, That if any Defendant in any suit or action, by reason of his or their sudden Departure out of this province, shall require a more speedy Determination in such action or suit, than can be obtained by the Com'on or ordinary Rules of proceeding in any of the s^d^ courts of Com'on Pleas in this province, The s^d^ Justices in y^e^ s^d^ respective courts, upon applica'con to them made, shall Grant to such Defendant or Defendants Special Courts, & shall proceed to hear & Determine y^e^ p'misses, according to the course & practice of the s^d^ courts of Com'on Pleas.

another county.

Fines shall be estreated into the supreme court.

Defendant shall have a special court in case of sudden departure.

Provided always, That before the s^d^ Justices shall Grant such Special Court, or proceed to hear & Determine y^e^ p'misses, such Defendant shall Give Bail to y^e^ plaintiffs action by Recognizance, according to the course & practice of the s^d^ court of com'on pleas.

Special bail shall be required.

Provided also That the ffees due to the Justices & officers of each Special Court for any thing done there, shall be double the ffees usually by them taken for the same in the s^d^ court of com'on pleas, any thing or any other Law contained to the contrary Notwitstanding.

Double fees shall be paid.

And to prevent the Excessive charges that have of late arrisen upon Executing Writts of Enquiry of Damages; *It is hereby Enacted*, That the Justices who give any Interlocutary Judgm^t^ shall, at the motion of the plaintiff, or his attorney in the action where such Judgm^t^ is given, make an Order, in the Nature of a Writt of Inquiry, to charge the Jury attending y^e^ same or the next court, after such Judgm^t^ is Given, to Enquire of the Damages & Costs sustained by the plaintiff in such action; which Inquiry shall be made, & Evidence given in open Court; and after y^e^ Inquest consider thereof, they shall forthwith Return their Inquisition under their seals; Whereupon the court may proceed to Give Judgm^t^ as upon Inquisitions of that kind returned by the Sheriff. *And be it further Enacted by the authority*

Process on writs of enquiry regulated.

Attornies may be admitted to practice in all the courts of this province.

*afores*ᵈ. That there may be a competent Number of persons, of honest disposition & learned in yᵉ Law, admitted by the Justices of the sᵈ respective courts, to practice as attorneys there, who shall behave themselves Justly & ffaithfully in their practice; And if they Misbehave themselves therein, they shall suffer such penalties and suspensions, as attorneys at Law in Great Britain are lyable in such cases; By which sᵈ attorneys actions may be Entered, & Writts, Process, Declarations, & other pleadings & Records, in all such actions & suits, as they shall respectively be Concerned to Prosecute or Defend from time to time, may be Drawn, & with their Names & proper hands signed: Which sᵈ Attorneys so admitted, may practice in all the courts in this province without any further or other License or Admittance.

Warrant of attorney shall be filed with the prothonotary.

And that the attorney for the plaintiff in every action shall ffile his Warrant of attorney in yᵉ prothonotaries Office yᵉ same court he Declares; And the attorney for the Defendant shall ffile his warrant of attorney, yᵉ same court he appears; And if they Neglect so to do, they shall have no ffee allowed them in the Bill of Costs, nor be suffered to speak in the cause, till they ffile their warrants respectively.

Passed May 28, 1715.

Recorded Law Book A, Vol. 2, p. 112.

Repealed in Council July 21, 1719.

AN ACT

For the better ascertaining yᵉ practice of yᵉ Courts of Judicature in this province.

How original process shall issue, and bear teste.

Whereas the Law, which ought to be the Rule and Standard of all Judicial proceedings, is in itself Just, and Grounded upon that most Excellent principal of doing to others what we would have done to us, Nevertheless Complaints are made, That the practice of the Law in this province falls under some Irregularities; ffor Rectifying whereof & to prevent the like Inconveniency for the future, and to the end that the sᵈ courts of Judicature may be Governed by the same Rules & course of proceedings throughout this province: Be it Enacted, by Charles Gookin Esquire, by yᵉ Royal approbation Lievtenant Governour under William Penn, Esquire, proprietary & Governour of the province of Pensilvania, By and with the advice & consent of the ffreemen of the sᵈ province in General Assembly, and by the Authority of the same, That the first comencement of all suits or actions in the Courts of Com'on Pleas within this province shall be by the plaintiffs or their attorneys taking out or obtaining Writts of Sum'ons capias or attachmᵗ, as the case may require, under yᵉ hand & seal of one of the Justices of the sᵈ courts, directed to the Sheriff or coroner of the proper county, returnable to the next court after the date or Teste thereof; which Writts shall contain & Express the

Names of the plaintiffs & Defendants, with the places of abode, & additions of every Defendant, as also y^e^ Nature or cause of the action, & the sum's of the Debts or Damages sued for, and the day & place of their Return, according to a Note or præcipe drawn by the plaintiffs or their attorneys, or by the Clerks of the s^d^ respective courts for that purpose; which they shall present to y^e^ Justices before he Grants such Writts; which s^d^ pracipes shall be filed in the prothonotarys office by the plaintiffs or their attorneys, or by the s^d^ Clerks, at or before the Return of the s^d^ Writts, or else such Writts shall abate. And that all the s^d^ Writts shall be made Returnable ye^e^ ffirst day of the Quarterly Courts of Com'on pleas, & not otherwise, & Returned the same day by the Sheriff or Coroner accordingly. And when the Defendant is arrested, & Bail Bonds taken for his appearance, (according to y^e^ statute of the twenty third of Henry the Sixth, chapter the tenth,) every such Defendant upon his appearance at the day that the Writt is Returnable, shall forthwith put in Bail, Special or Com'on, as the Court shall order, and as the Law in such Cases doth or shall direct, and till such Bail be given, the Defendants shall be com'itted to the Sheriffs custody there to be safely kept accordingly; which s^d^ special Bail shall be by Bail piece or Recognizance, for the su'm Expressed in the writt, to Render the Body of the Defendant if he be condemned in. But before such Bail be taken, the Defendant or his Attorney shall give to the plaintiff or his Attorney, one days Notice in writing of the Names & additions of the Bail, and y^e^ time when the same is intended to be put in; and if the plaintiff or his attorney after such Notice will not attend to take Exceptions to y^e^ Bail, at the time and place appointed, y^e^ Bail may be taken *de Bene Esse:* But if the plaintiff or his attorney shall afterwards appear & Except against the Bail, then the Bail piece shall be brought into Court, & the Justices upon Examination of the Matter and what the Bail upon Oath or affirmation will Declare themselves to be worth, may allow or Disallow of them, Till which allowance the Defendant shall be com'itted to Gaol, there to remain in safe Custody untill he puts in Bail to the action in manner afores^d^. *Provided always*, That it shall and may be lawfull for any sureties on Bail Bonds, at or before the day whereon the Defendant for whom they are Bound ought to appear, to bring or deliver such Defendant to y^e^ Sheriff or officer that took such Bonds, who is hereby Impowered & Required to Receive such Defendant, & put him in Gaol, there to be safely kept till he Gives Bail to the action in manner afores^d^; and upon the sureties bringing in or delivering the Defendant to the Sheriff or officer as afores^d^, or upon the Defendants rendring himselfe to the Sheriff or officer, the Bail Bonds in all such Cases shall be thereby Discharged; and if the Sheriff or Keeper of such Gaol shall in any of the s^d^ cases refuse to receive the Defendant, and him safely keep as afores^d^, he shall pay to the party grieved Double Damages, to be recovered in any court of Record in this province. *Provided also*, That where any ffreeholder of sufficient housekeeper, in this province, shall

When writs shall be returned.

Bail shall be given or defendant committed.

If no exceptions bail may be taken *de bene esse.*

Exceptions may be made after such acceptance.

Sureties on bail bonds, may surrender defendant, &c.

Freeholders shall be discharged upon filing common bail.

be taken by any of the s[d] Writts of arrest, his Bail Bond shall be Discharged, upon his appearance in person or by his Attorney, and ffiling Com'on Bail, unless it shall appear to the court that there is cause why special Bail should be given. *Provided also*, That where any one is sued as Executor or administrator, he shall not be held to Bail upon any of the said Writts, But shall be Admitted to Com'on Bail upon appearance, and his Bail Bond shall be Discharged; Unless where he is charged by the Declaration with Wasting the Decedents Goods, Or where the action is brought for something done by him since he became Executor or administrator, or where Letters of adminstration have been Granted out of this province, and no security Given in y[e] Register Generals office, as is usually done upon Granting administrations in this province. *And be it further Enacted*, That if the Defendant doth not appear according to the writt & find Bail as afores[d], Then the plaintiff or his Attorney, may call to the Sheriff or other officer for a Return indorst on the s[d] Writt, Which such Sheriff or officer, is hereby required to make on the day that such Writt is Returnable, and if he Refuses or delays so to do, or if upon his Return of a *Cepi-Corpus* he has not the Body ready, nor taken Bail, or if it appears that he has taken insufficient sureties, or has taken insufficient appearance, for such as are not to be Bailed by the s[d] Statute of the Twenty third of Henry the sixth, Then, & in every such case, the plaintiff or his Attorney, may move the court to amerce such Sheriff or officer as is usual in such cases, and the party grieved may have his action to Recover his Damages in that behalfe, *Provided always*, That where the sheriff or other officer takes a Bail Bond, he shall at the Request & costs of the plantiff or his attorney, assign the same by Indorsing thereof, and Attesting it under his hand & seal in the p'sence of two or more credible Witnesses; and if such Bond be forfeited, the plaintiff after such assignm[t] may bring an action in his own Name, Whereupon the Court where the action is brought may Give such Relief to the plaintiff & Defendant in the original action, & to the Bail, as the statute made in the fourth & fifth years of the late Queen Ann, Chapter the sixteenth, (*Intituled an an act for the amendm[t] of the Law and the better advancem[t] of Justice*,) doth direct in such cases; Which s[d] statute in that & all other points shall be observed and put in Execution in this province, so farr as circumstances can admitt. *Provided also*, That all Bail Bonds may be put in suit at any time after the last day of the Court, where the Writt was Returnable, and that the process upon Bail Bonds shall be sum'ons, and the Defendant in the original action shall be admitted upon payment of costs, to Appear, put in Bail, and plead to such original action. Whereupon the Bail-Bond shall be Discharged and all proceedings thereupon Stayed, and Relief given to the parties as the case may require. Provided also, That where any actions have been com'enced against any person or persons upon Bail Bonds, Entred into since y[e] seventeenth day of July last past, (being the time when the late Repeal of Several Laws of this province was

Executors and administrators shall be exempted from special bail, except in certain cases.

Officers serving writs required to make return, and upon neglect of duty shall be fined.

How to proceed upon forfeited recognizances.

Actions upon bail bond, now pending, shall be discontinued.

published,) all & every such action & actions, shall be, and are hereby Declared to be Discontinued, and the Defendants for whom such Bail has been Given, shall be admitted to plead to the original action, without paying costs, and no ffees shall be Demanded, taken or allowed, for any process or proceedings upon the Bail Bonds. *Provided also*, That Nothing herein contained shall avoid any of the s[d] Bail Bonds; But that the Defendants may Enter their appearance, which shall be accepted upon Bail given, according to the Direction of this act, and in Default thereof, the Bail Bonds to be put in suit forthwith.

Bail bonds shall not be avoided.

Provided also, That nothing herein, or in the said Repeal contained, shall Extend or be construed to Discontinue any actions, suits, plaints, process, Indictments or Informations, for any Matter or cause whatsoever, now Depending in any of the Courts of this province, (Except such actions as are com'enced on Bail Bonds as afores[d]), But that the same are hereby continued and shall be proceeded upon in the s[d] respective courts. *And be it further Enacted* That where any Defendant shall be taken and charged in custody upon any of the above named Writts of arrest & Imprisoned for want of sureties, or because his sureties will stand no longer Bound for him, Then and in every such case, the plaintiff on the first day of the court to which any such Writt is Returnable, shall file his Declaration in the prothonotarys office against the prisoner, and cause a copy thereof to be Delivered to him, or to y[e] Gaol Keeper, To which Declaration the prisoner shall appear and plead, or otherwise the plaintiff shall have Judgm[t], in such manner as if y[e] Defendant had appeared in court & refused to answer or plead to such Declaration.

No action, suit, &c., now pending shall be discontinued.

How to proceed when bail is surrendered.

And where a writt of sum'ons is served upon the Defendant, or Notice left in writing by the sheriff or his Deputy at the Defendants Dwelling house, or place of his last abode, in the P'sence of one or more of his ffamily or Neighbours, signifying that the Defendant should be and appear according to the contents of such writt of sum'ons, If upon the sheriffs making Return thereof accordingly, the Defendant does not appear, the plaintiff before the End of the court where such Writt is returnable does file his Declaration, and if the Defendant being solemly called Three times the last day of the court, does not appear, Judgm[t] shall be Entred against him, which shall be valid and effectual in Law, as if such Defendant had actually appeared and confessed Judgm[t] or suffered it to pass against him by Nihil Dicit. *And be it further Enacted* That on y[e] day before the Return of the s[d] Writts, the plaintiff therein shall ffile his Declaration, in the prothonotaries office, otherwise a Non pros. shall be Entred against him, And the Defendant may Imparte or have leave to plead to such Declaration, till Twenty Eight days after filing thereof, and in Default of filing such plea, Judgm[t] by Nihil Dicit shall be Entred against him; And if the plaintiff shall not Reply or Joyn Issue within Twenty one days next after plea pleaded, he shall be Non pross'd, And that Defendant shall within Twenty one days after Replication filed, Rejoine or Joyn Issue, or Judgm[t] shall be Entred against

Judgment for non-appearance.

When a *non prosequitur* shall be entered.

him, And the plaintiff if occasion be, shall surrejoyne or Joyne Issue by the first day of the next ensuing court, or be Non pross'd. *Provided always*, That no Execution shall Issue upon any of y^e^ s^d^ Judgm^ts^, to be Entred upon the ffailures afores^d^, till the next succeeding court after such Judgm^t^ Entred, at which court, & not after, It shall be lawfull for the Justices upon the Motion of the party Grieved or his attorney, and good cause shewed to set aside such Judgm^ts^, as is usually done in such cases.

When execution shall issue, and how judgment may be set aside.

Trial list shall be prepared.

And after Issue Joyned, the prothonotary or clerk of each court shall draw out a List thereof successively as they are Joyned, and set the same up in their respective offices; which s^d^ Lists shall be publickly set up in the court-house, during the siting of the court, At which court every plaintiff shall bring his cause to Tryal in course as the same stands in priority upon the s^d^ List; and no cause shall be postopened, or put of to another time, without paying costs, and shewing such sufficient cause as the Justices shall approve of for so doing. And That every Defendant shall attend his Tryal without any Notice to be given him for that purpose, and if the plaintiff Declines such Tryal, then the Defendant may bring the same on by provisoe, at the next succeeding court.

No postponement, except for sufficient cause.

Defendants shall attend trial without notice.

Breach of covenant.

And That in all actions upon Bond, or penalty for Nonperformance of covenants, the plaintiff may assign as many Breaches as he shall think fitt, and the Jury at the Tryal shall & may asses' Damages for such of th s^d^ covenants as the plaintiff shall prove broken, and the like Judgm^t^ shall be Entred on such verdict, as hath been Used in such actions; and if Judgm^t^ shall be Given for the plaintiff upon Demurer, Confession, or Nihil Dicit, the plaintiff upon the Roll may suggest as many Breaches as he shall think fitt, Upon which shall Issue a Writt to sum'on a Jury to Inquire of the Truth of every one of those Breaches, and to asses Damages accordingly & to Return the same to the court where the cause depends, and thereupon the proceedings shall be according to a Statute made in the Eighth and Ninth year of William y^e^ Third, chapter the Twelfth; Intituled an act for the better preventing ffrivolous & vexatious suits, which s^d^ Statute in that point As also where the plaintiff or Defendant dye, after an Interlocutary Judgm^t^, and in all other things shall be observed and put in practice in this province, so farr as Circumstances can admitt. And that writts of Inquiry shall be awarded upon all Interlocutary Judgm^ts^, and eight days Notice thereof be Given to the Defendant or his attorney, in order to make his Defence.

Process on writs of inquiry.

Motions in arrest of judgment.

*And be it further Enacted by the authority afores^d^*, That Motions may be made in arrest of Judgm^t^, or to lay aside the verdict, whereupon the court may upon Reasons Usually allowed in such cases, either arrest the Judgm^t^, or lay aside the verdict and order a New Tryal, as the case may Require, as also Mitigate Excessive Damages found or Returned upon Writts of Inquiry, or lay aside the Inquisition, and Grant New Writts where y^e^ same may be done in Great Britain. *Provided always* That no Judgm^t^ shall be stayed or Re-

versed, for any the om'issions, Defects, variances or Defaults, helped by any the acts of Parliam[t] of Great Britain, called Statutes of Jeophals, all which s[d] statutes shall be observed in this province, & shall be extended to Judgments Entred or to be Entred of Record, upon confession, *Non Sum Informatus*, or *Nihil Dicit*, which s[d] Judgm[ts], as also Judgm[ts] Given upon any Writt, or Inquiry of Damages executed thereon, shall not be stayed or Reversed for or by Reason of any Imperfection, om'ission Defect, Matter or thing whatsoever, which would have been aided by the s[d] statutes of Jeofails, so that the original Writts & Warrants of attorney in such cases be duely filed. *And be it further Enacted*, That no Judgm[t] shall be Entred of Record in any of the courts of this province, unless it be signed by one of the justices or prothonotary, Nor costs of suit set down, before the same be Taxed by one of the s[d] Justices; and if any Judgm[t] be acknowledged or Entred in vacation time, y[e] Justice that signs y[e] same shall set down the day of the Month & year of his so doing, upon the paper Dogget or Record he signs, which day and year shall also be Entred upon the Margent of the Roll of the Record where the s[d] Judgm[t] shall be Entred, and shall have Relation accordingly. *And be it further Enacted by the Authority afores[d]* that when any Debt is Recovered, Damages awarded, or Non suit obtained, in any of the s[d] courts, It shall and may be lawfull for the plaintiff or Defendant who Recovered or obtained the same, to take out his writt of capias ad satisfaciendum, Elegit Levari, or ffire facias as he shall think fitt, and proceed thereupon according to the course of proceedings upon such writts in Great Britain, having due Regard to the Directions of the Laws of this province in the Execution of Lands. *Provided always*, That in all cases where the plaintiff Recovers Judgm[ts], if at the Instance & Request of the Defendant he delays taking out Execution upon such Judgment, Then the plaintiff shall have Interest allowed from the day Judgm[t] is Given. *And be it further Enacted*, That when Writts of Error are brought to remove courses from Inferior courts, y[e] same shall be allowed by one of the Judges of y[e] Supreme court, But before he allows thereof the plaintiff in Error, with one or more sureties, such as the Judge shall approve of, must become Bound to the Defendant in Error, in Double the sum adjudged to be Recovered by the Judgm[t] upon which y[e] Writt is brought where y[e] Law requires such Bail: Conditioned, That the plaintiff in such Writt hath good cause of Error, shall follow the same Writt with the Effect, and if the Judgm[t] be affirmed in the supreme court, shall satisfy all the Debts, Damages and costs so adjudged, and all costs and Damages for delaying Execution by the Writt of Error; and upon Entring into such Recognizance, the Judge shall subscribe his Name to y[e] allocature, & to the caption of the Recognizance, which Writt of Error so allowed, shall be a supersedeas of itselfe, to any Execution Granted, or to be Granted, and not executed, untill the Writt of Error be Determined or Discontinued in the Supreme court; But if the Bail so Given upon the allowance

No judgment shall be stayed or reversed by reason of any imperfection or omission.

No judgment shall be entered of record unless signed by one justice, or the prothonotary. cost shall be taxed by one justice.

Judgments entered in vacation.

Writs of execution.

If execution be stayed, interest shall be allowed plaintiff.

Writs of error may be allowed by one of the judges.

Bond and conditions.

Insufficient bail may be objected against.

of the Writt of Error shall at any time afterwards be objected against, and proved, before any of the s^{d} judges in vacation time, or before the supreme court when sitting, to be insufficient, the plaintiff in Error shall thereupon find better Bail, or Execution may be taken out upon the Judgm^{t}, notwithstanding the Writt of Error and supersedeas afores^{d}, But y^{e} Writt of Error shall still remain in force, so that such plaintiff may proceed thereon. *Provided always*, That no Executor or other person who by the Law and course of proceedings in Great Britain, are not to Give Bail or sureties upon Removal of any cause by Writt of Error or habeas corpus (other than such administrators as have not given security in the Register Generals office as afores^{d},) shall be obliged to put in bail, in such cases in this province. *Provided also*, That no Judgm^{t} given in any real or personal action in any court of this province, shall after the five and twentieth day of March, one thousand seven hundred and fifteen, be Reversed for any Error therein, unless the Writt or suit for Reversing such Judgment be comenced and prosecuted with Effect, within Twenty years after such Judgment signed or Entred on Record. But persons Intituted to such writts of Error, being within the age of Twenty one years, or covert, or not of sound Mind, or not in this province when such Title accrued, They, their heirs, Execut^{rs} or Administ^{rs} may bring their Writt or Writts of Error, for Reversing such Judgm^{t}, as they might have done If this act had never been made, so that it be within five years after their being of full age, Dis-covert, of sound Mind, out of prison, or Return to this province, or Death, and not afterward or otherwise. *And be it further Enacted*, That no Writt of certiorari, for Removing Indictm^{ts} or presentm^{ts} into the s^{d} supreme court, shall be Granted or awarded in court time but upon Motion of an attorney, and by Rule of court made for Granting thereof; But in vacation time the same Writts may be Granted by any of the Justices of the s^{d} supreme court, whose Name shall be Indorsed on y^{e} s^{d} writt, with the Names of the persons at whose instance the same is Granted. *Provided always* That none of the s^{d} Writts of certiorari shall be allowed before the party or parties prosecuting the same, find sureties or Manucaptors to be bound in Recognizance, before one or more Justices of the peace of the county or place where the s^{d} Indictm^{t} or presentment was found, in such sum & sums, and with such conditions, as are mentioned and directed in and by the statute of the fifth and sixth of William & Mary, Intitled an act to p'vent delays of proceedings in the Quarter-Sessions of the peace: And if the party prosecuting such Writt of certiorari be convicted of the ffact for which he was Indicted, That then y^{e} s^{d} Supreme Court shall Give Reasonable costs to the prosecutor, and Grant attachm^{t} against the Defendant for such costs, according to the s^{d} statute, and that such Recognizance shall not be discharge untill the said costs be paid. *And be it further Enacted*, That all such Records, Dockets, Minutes & process of the provincial courts, county courts and other courts of this province, with the ffiles, Bundles, Books and

Executors, who have entered security with the register general, not required to enter bail on removal of cause, &c.

Limitations.

Persons of unsound mind, &c., excepted.

Remedial writs, &c., to be issued in open court upon motion of attorney.

How issued in vacation.

No writ shall be allowed until security be given.

Records, &c., of former courts shall be delivered to the clerks and prothonotaries.

papers relating thereto, as are not Lodged with the p'sent clerks or prothonotaries of the s[d] courts, shall be forthwith delivered to them, whose Receipts shall sufficiently discharge the former clerks their Execut[rs] or administrators which shall Deliver the same; and when any person has occasion to produce or make use of any of those Records or process, the same shall be copied or Exemplifycation by the prothonotary or clerk for the time being, in whose custody they then are, and attested under his hand & Judicial Seal of the court whereto he belongs, and when such copy or Exemplification shall be produced in any court of this province, the party produceing the same shall not be deemed to fail of his Record, or the Judgm[t] & proceedings thereon be Reversed for Error, if such copy or exemplification contains the essentials, though it may want the formal parts of the Record.

Passed May 28, 1715.

Recorded Law Book A vol. 2, p 114.

Repealed in Council July 21, 1719.

AN ACT

For the Advancement of Justice, and more certain Admintration thereof.

Recital of the royal charter.

WHEREAS King Charles the Second by his Royal Charter to William Penn, Esq[r], for erecting this country into a province, did declare it to be his will and pleasure, That the laws for regulating and governing of property within the said province, as well for the descent and enjoyment of lands, as for the enjoyment and succession of goods and chattles, and likewise as to felonies, should be and continue the same as they should be for the time being by the general course of the law in the Kingdom of England, until the s[d] Laws shall be altered by the s[d] William Penn, his heirs or assigns, and by the freemen of the said province, their delegates or deputies, or the greater part of them.

And Whereas it is a settled point, that as the common Law is the birth-right of English subjects, so it ought to be their rule in British dominions; But Acts of parliament have been adjudged not to extend to these plantations, unless they are particularly named in such acts.

Now for asmuch as some persons have been encouraged to transgress certain Statutes against capital crimes, and other enormities, because those statutes have not been hitherto fully extended to this province.

Trials of high treason to be as in England.

Therefore, Least there should be any further failure in that Behalf, May it please the Governour that it may be enacted, *And Be it Enacted* by William Keith, Esq[r], By and with the King's Royal Approbation Deputy-Lieutenant and Governour under the said William Penn, Esq[r], proprietary and Governour in Chief of the province of Pensilvania, &c. By and with the Advice and Consent of the freemen of the

said province in General Assembly met and by the Authority of the same, *That* all Inquests and Trials of High Treason shall be according to the due Order and Course of the Common Law, observing the Directions of the Statute-Laws of Great Britain, relating to the trials, proceedings and judgments in such cases.

Trials of other capital crimes, as by this act.

And Be it further Enacted, That the Inquiries and Trial of all petty Treasons, Misprison of Treason, Murder, Manslaughters, homicides, and all such other Crimes and Misprisons as by this Act or any other Act of Assembly of this province are or shall be made capitall, or felonies of Death which have been or shall be done, committed, perpetrated or happen within this province shall be as by this Act is directed.

Qualifications of judges, juries, and witnesses.

And Whereas the several Crimes declared by this Act to be felonies of Death, are by the Course of the Laws of that part of Great Britain called England, to be enquired of and tried by justices jurys and witnesses upon their Oaths.

But forasmuch as the greatest part of the Inhabitants of this province are such who for Conscience Sake cannot take an Oath in any case; Yet without their Assistance Justice cannot be well administered, and too great a Burthen will fall upon the other Inhabitants: *Be it therefore Enacted by the Authority aforesaid*, That all and all manner of Crimes and Offences, matters and causes whatsoever, to be enquired of, heard, tried and determined by virtue of this or any other Act or Law of this province, or otherwise, shall and may be enquired of, heard, tried and determined by Judges, Justices, Inquests and Witnesses, qualifying themselves according to their conscientious perswasions respectively, either by takeing a corporal Oath, or by solemn Affirmation Allowed by Act of parliament to those called Quakers in Great Britain.

Their affirmation to have the effect of an oath.

Which Affirmation of such persons as conscientiously refuse to take an Oath, shall be accounted and deemed in the Law to have the full Effect of an Oath in any Case whatsoever in this province.

If false to be perjury.

And that all such persons as shall be Convicted of falsly and corruptly affirming or declaring any matter or thing, which, if the same had been upon Oath, would by law amount to wilful and corrupt perjury, shall incur the same penalties, Disabilities and forfeitures as persons convicted of wilful perjury do incur by the Laws of Great Britain.

Privileges of criminals.

And That upon all trials of the said capital crimes, lawful Challenges shall be allowed, and Learned Councill be assigned to the prisoners, and shall have process to compel witnesses to appear for them upon any of the said Trials, But before such Witnesses shall be admitted to depose or give any manner of Evidence, they shall first take an Oath or Affirmation, To say the Truth, the whole Truth, and nothing but the Truth, in such manner as the Witneses for the King are by the Law of this province obliged to do; And if convicted of any wilful perjury, in such Evidence, shall suffer all the punishments, penalties, forfeitures and disabilities which by any of the Laws and Statutes of Great

Britain are or may be inflicted upon persons convicted of wilfull perjury.

But if any of the said prisoners shall upon their Arraignment for any of the said Crimes stand mute, or not answer directly, or shall peremptorily challenge above the number of twenty persons returned to serve of the Jury, he or they so offending shall suffer as a fellon convict; and shall lose the Benifitt of Clergy, and of this Act, in the same manner as he or they should have done if they had been indicted, arraigned and found Guilty, if it appear to the Justices, before whom such felons be arraigned, by Evidence given before them, or by Examination, that the same felonies whereon they are so arraigned had been such felonies by reason whereof they should have lost the Benifitt of their Clergy. Persons standing mute, &c., to suffer as felons, convicts, &c.

And when any person or persons shall be so as aforesaid convicted or attainted of any of the said Crimes, They shall suffer as the Laws of Great Britain now do or hereafter shall direct and require in such Cases respectively. Judgments and executions of such criminals to be as in England.

And it shall and may be lawful for the Justices of the Court where any of the said Attainders or Convictions shall happen, to give and pronounce such Judgm^{t} or Sentence against the persons so attainted or convicted, as their Crimes respectively require, according to the manner, form and Direction of the Laws of that part of Great Britain called England in the like Cases; and thereupon to award and order Execution to be done accordingly.

And be it further Enacted by the Authority aforesaid, That if any person or persons shall commit Sodomy or Buggery, or Rape or Robbery; which Robbery is done by assaulting another on or near the highway, putting him in fear, and taking from his person Money or other Goods, to any Value whatsoever, he or they so offending or committing any of the said Crimes within this province, their Councellors, Aiders, Comforters and Abettors being convicted thereof as above said, shall suffer as felons, according to the tenor, direction, form and effect of the several Statutes in such Cases respectively made and provided in Great Britain; any Act or Law of this province to the contrary in anywise notwithstanding. Persons convicted of sodomy, &c., to suffer according to the statute law.

And be it further Enacted by the Authority aforesaid, That if any Woman shall be delivered of any Issue of her Body, Male or Female, which, being born alive, should, by Law be deemed a Bastard, and that she endeavour privately either by drowning or secret burying thereof, or any other way, either by herself or by the procuring of others, so to do conceal the Death thereof as that it may not come to light, whether it were born alive or not, and be concealed; in every such Case the Mother so offending, being convicted thereof according to the Usual Course of proceedings in capital Crimes within this province, shall suffer Death, as in case of Murder Except such mother can make proof, by one Witness at the least, that the child, whose Death was by her so intended to be concealed was born dead. It shall be murder in women to conceal the death of their bastards.

And if any person or persons shall council, advise or direct such Woman to kill the Child she goes with, and after Advising to kill is murder.

she is delivered of such Child, she kills it, every such person so advising or directing, shall be deemed accessary to such Murder, and shall have the same punishment as the principal shall have.

The statute against stabbing extended.

And be it further Enacted by the Authority aforesaid, that the Statute against Stabbing made in the first Year of the Reign of King James the first, Chap. 8th, Entituled, An Act to take away the Benefit of the Clergy for some Kind of Manslaughter, shall be duly observed and put in Execution in this province, and be of like force and effect as if the same act were here repeated and enacted; but that all such persons as shall happen to be present and aiding to the stabbing of another, which by the sd Act is made Murder, shall not be deemed principals but Accessarys to such Stabbing.

Persons convicted of putting out an eye, &c., shall suffer as felons.

And be it further Enacted by the Authority aforesaid, That if any person or persons on purpose, and of Malice—forethought, and by laying in Wait,—shall unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off the Nose or Lip, or cut off or disable any Limbs or Members of the King's Subjects, with intention in so doing to maim or disfigure, in any of the manners beforementioned, such his Majestie's Subjects; That then, and in every such Case, the person or persons so offending, their Councellors, Aiders and Abettors, knowing of and privy to the Offence as aforesaid, shall suffer Death, as in cases of felony, without Benefit of Clergy.

Witchcraft.

And be it further Enacted by *the Author*ity aforesaid, That another Statute, made in the first Year of the Reign of King James the first, Chap. 12th, Entituled, An Act against Conjuration, Witchcraft and dealing with evil and wicked Spirits, shall be duely put in Execution in this province, and of like force and effect as if the same were here repeated and enacted.

Burglars shall suffer death, without benefit of clergy.

And be it further Enacted by the Authority aforesaid, That if any person or persons shall be so as aforesaid convicted of Burglary; which is a breaking and Entring into a Dwelling-house of another in the Night time, With an Intent to kill some Reasonable Creature, or to comit some other felony within the same house, whether the felonious Intent be executed or not, he or they so offending within this province, being convicted thereof, as aforesd shall suffer Death without benefit of Clergy, any Law of this province to the contrary notwithstanding.

Persons convicted of arson shall suffer death.

And if any person or persons shall be so as aforesaid convicted maliciously and voluntarily burning the Dwelling-House, Barn, Stable, or Outhouse of another, having Corn or hay therein, he or they so offending within this province, shall suffer Death, any Law of this province to the contrary notwithstanding.

Accessaries may nevertheless be proceeded against, &c.

And be it further Enacted by the Authority aforesd, That if any principal Offender in any capitall Crime (which by the Laws of this province for the time being is made felony of Death) shall be convicted of any such felony, or shall stand mute, or peremptorily challenge above the Number of

Twenty Persons returned to serve of the Jury, it shall and may be lawfull to proceed against any Accessary, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding any such principal felon shall be admitted to the Benefit of his Clergy, pardoned or otherwise delivered before attainder; and every such Accessary shall suffer the same punishment, if he or she be convicted, or stand mute, or peremptorily challenge above the Number of Twenty persons returned to serve of the Jury, as he or she should have suffered if y^e^ principal had been attained.

Concealers of robbers, &c., if they pray the benefit of this act, not to suffer death.

And be it further Enacted by the Authority afores^d^, That if any person or persons shall receive, harbour or conceal any of the said Robbers or Burglars, felons & Thieves, or shall receive or buy any goods or chattels, That shall be feloniously taken or stolen by any such Robbers or Burglars, felons or Thives, knowing the same to be stolen, and being so as aforesaid convicted of either of the said Offences; If he or they pray to have the benefit of this Act, in Lieu of Clergy, Judgm^t^ of Death shall not be given against them upon such Conviction, nor Execution awarded upon any Outlawry for such Offence, But they shall be Burnt in their hands, in manner as hereinafter directed.

Though the principal felon is not taken, accessaries may be prosecuted.

Provided Always, That if any such principal Robber or Burglar, Felon or Thief cannot be taken so as to be prosecuted and convicted for any such Offence, nevertheless it shall be lawfull to prosecute and punish every such person and persons, buying or receiving any Goods stolen by any such principal felon knowing the same to be stolen, as for a Misdemeanour, to be punished by fine and Imprisonm^t^, or other such corporal punishm^t^ as the Court shall think fit to inflict, although the principal felon be not before convict of the said felony. Which punishment shall exempt the Offender from being punished as Accessary if such principal felon shall afterwards be taken and convicted.

If a person indicted, &c., will not appear *capias* shall be awarded, if not found, the sheriff to make proclamation in quarter sessions, &c.

And Be it further *Enacted*, by the authority afores^d^, That if any person or persons who have been indicted or appealed, or hereafter shall be Indicted or appealed, for any of the s^d^ Crimes did not, or will not appear to answer such Indictm^t^ or appeal, the Justices before whom the same hath been or shall be taken, shall award a Writ called *Capias* against every such Offender, directed to the Sheriff of the County where the party indicted or Appealed are, by such Indictment or appeal, supposed to be conversant or inhabit, returnable before the Justices of that Court where such party is or shall be so Indicted or appealed, at the Supream or Provincial Court next after the taking of such Indictment or Appeal; by which Writ of *Capias* the same Sheriff shall be commanded, to take the Body of him or them so indicted or appealed, if he can be found in his Baylywick, and if he or they cannot be found, the Sheriff shall make proclamation in every Court of Quarter-Sessions, which shall be held for the said County where the said party indicted or appealed, is supposed to inhabit or be conversant as aforesaid, That he or they being so indicted or appealed shall appear

before the said Justices of the said Supream Court, on the day of the return of the said Writ of *Capias*, to answer our Lord the King, or to the party, of the Treason, felony, or treaspass whereof he or they are so indicted or appealed. Which Writ shall be delivered to the said sheriff or sheriffs three months before the return thereof; after which Writ of *Capias* so served and returned, if he who is so indicted or appealed comes not at the said day of return of the said *Capias*, and yield his Body to the Sheriff he shall be, by the Justices of the s[d] Supream Court, pronounced Out-Law'd, and attainted of the Crime whereof he is soe indicted or appealed, as aforesaid, and from that time shall forfeit and lose all his Lands and Tenem[ts], Goods, and Chattles, Which forfeiture, and all other forfeitures expressed or implyed by the s[d] Judgmen[ts] to be given upon the s[d] capital Offences mentioned in this act, after such criminals just debts and the reasonable charges of their maintenance in prison are deducted, shall go, one half to the Governour for the time being, towards the support of this Government, and for defraying the charges of prosecution, tryal and execution of such criminalls and the other half or residue thereof shall go to such Criminal's Wife and Children equally: But if he leaves no Wife or Children, then to the next of his Kindred, not descending lower than the second degree, to be claimed within three years after the Death of such Criminalls; otherwise the same shall go to the Governour as aforesaid any law or usage to the contrary notwithstanding.

Not appearing to be out-lawed and forfeit all his estate, one half thereof to go to the governor, and the other half to the criminal's wife and children.

Provided always, and be it further Enacted That when any person or persons charged, committed to prison, or convicted of any of the said Capital Crimes, being justly indebted to any other person or persons, he or they so indebted may be arrested or their goods and chattles attached to answer the suits of their repsective Creditors, who makeing due proof that the debts or sums, demanded are really and without fraud due, shall recover judgment for the same and executions may be awarded against the Lands, Goods and Chattles of such Defendants, as is usual in other cases.

Criminals liable to be arrested by their creditors.

Provided also, That he or they who shall happen to break prison, shall not have judgm[t] of Life or Member for breaking of prison only, except the cause for which he or they were taken and imprisoned did require such judgem[t], had he been convict according to Law.

Breakers of prisons.

And Be It further Enacted by the Authority afores[d], That if any person be convicted of any such felony as is hereby made capital, for which he ought by the laws of Great Britain to have the benefit of his Clergy, and shall pray to have the benefit of this Act, he shall not be required to Read, but without any reading shall be allowed, taken and reputed to be and punished as a Clerk Convict, and Burnt, if for Murder, with an M upon the brawn of the left thumb; and if for any other felony, with a T in the same place of the thumb: Which Marks are to be made by the goaler in open Court, as is usual in Great Britain; which shall be Effecuall to all intents and purposes, and be as advantageous to him as if

Benefit of clergy may be obtained without reading.

he had read as a Clerk; any Law or usage to the contrary notwithstanding.

And that the s[d] Justices before whom such offender or Offenders shall be tryed and convicted shall also, at their discretion, award and give judgm[t], That such Offender and Offenders shall be committed to some house of Correction, or publick Workhouse within the County, City, Town or place where such Conviction shall be, there to remain and be kept without Bail or Mainprize for such time as such Justices shall then judge and award, not less than six months, and not exceeding two years. to be accompted from the time of such Conviction, and an Entry thereof shall be made of Record, pursuant to such Judgem[t] and Award; and such Offender and Offenders so judged and awarded to remain and be kept in such house of Correction or Publick-Workhouse, shall be there set at Work and kept at hard Labour, for and during such time as shall be so adjudged and recorded: And in case such person or persons shall refuse or neglect to work and labour as they ought to do, the master or keeper of such house of Correction, or Publick-Workhouse respectively is hereby required to give such persons such due Correction as shall be fitt and necessary in that behalf.

The justices shall commit such offenders to some house of correction, &c.

And be it further Enacted by the Authority afores[d], That in case any such Offender or Offenders shall after such Judgem[t] given, escape out of prison, or out of such house of Correction or publick-Workhouse as he, she or they shall be committed unto as afores[d], such person or persons being afterwards retaken shall be brought before one or more of the provincial Judges, or before two or more Justices of the peace of such County, City, Town or place where such Offender or Offenders shall be so retaken; Which Judge or Justices are hereby required to committ such Offender and Offenders to some house of Correction, or Publick-Workhouse, within such County, City Town or place where he or they shall be so retaken, there to remain without Bail or Mainprize, for any time not less than twelve months, and not exceeding four years, to be accounted from the time of such re-taking, and there be set at Work, and kept at hard labour, and receive such due Correction as aforesaid.

If offenders escape and are retaken, to be committed, &c., for not less than twelve months, and above four years.

And in case any master or keeper of any house of Correction, or publick-Workhouse, shall neglect to do his Duty as above directed, any Judge or Justice of Gaol Delivery, upon Complaint, and due proof thereof made, upon the Oath or Affirmation of one or more Witnesses, to him made, shall be and is hereby impowered to remove such person from his said Office.

The master of such work-house upon neglect of duty, may be removed.

And be it further Enacted by the Authority aforesaid, That where a Man being convicted of any felony, for which he may demand the Benifitt of his Clergy, if a Woman be convicted for the same or the like offence, upon her prayer to have the Benifitt of this Act, Judgem[t] of Death shall not be given against her upon such Conviction or Execution awarded upon any outlawry for such offence, but shall suffer the same punishment as a man should suffer that has the benifit of his Clergy alowed him in the like Case, *That is to*

A women convicted of felony, may have the benefit of this act.

say, shall be burnt in the hand in manner aforesaid; and further to be kept in prison for such time as the Justices in their discretion shall think fitt, so as the same do not exceed one year.

Persons who once had the benefit of this act, being again convicted, &c., shall suffer death.

But if any Man or Woman who have once had the benefit of this Act as aforesaid, and shall be again convicted of any other felony hereby made Capital or felony of Death, for which a Man might have the benifit of his Clergy, every such Man and Women shall be and are hereby totally excluded from having any benifit, or advantage of this Act, but shall suffer pains of Death as in Cases where the benefit of Clergy is by law taken away.

Felonies committed in one county, and accessaries in another, indictment against such accessary shall be effectual.

And be it further Enacted by the Authority aforesaid, That where any Murder or felony hath been or hereafter shall be committed in one County of this province, and one or more persons shall be accessary or accessarys to any such Murder or felony in another County; That then an Indictment found or taken against such accessary or accessarys, upon the circumstance of such matter before Justices of the peace, or other Justices or Commissioners to enquire of felonies in the County where such offences of accessary or accessarys in any manner have or shall be committed or done, shall be as good and effectual in Law, as if the said principal offence had been committed or done within the same county where the Indictm^{t} against such Accessary hath been or shall be found.

Proceedings against accessaries.

And that the Justices of s^{d} Supream-Court, or two of them, upon suit to them made, shall write to the keepers of the records where such principal is or shall be hereafter attainted or convict, to certify them, whether such principal be attainted, convicted, or otherwise discharged of such principal felony; Who upon such writing to them, or any of them directed, shall make sufficient certificates in writing, under their seal or seals, to the said Justices, whether such principal be attainted convicted, or otherwise discharged or not, And after they so have the custody of such records, do certify, that such principal is attainted, convicted or otherwise discharged of such offence by the Law, then the Justices of Goal-Delivery or of Oyer and Terminer shall proceed upon every such accessary in the County where he or they became accessary, in such manner and form as if both the said principal offence and accessary had been committed and done in the same County where the offence of accessary was or shall be committed or done.

The justices may proceed against the accessaries, who are to be tried, &c., as by the statute of Edward VI, chapter 24.

And that every such Accessary, and other offenders above expressed shall answer upon their Arraignments, and receive such tryall, judgment, order and execution, and suffer such forfeitures, pains and penalties, as is used in other Cases of felony; and as the Statute made in the Second and Third Year of King Edward the Sixth Chap. the 24th, entituled, *An Act for the Tryal of Murders and Felonies committed in several counties*, doth direct in such cases; which statute shall be observed in this province; any Law or usage to the contrary notwithstanding.

And Be It Further Enacted by the Authority afores^{d}, That

every person who shall unlawfully and corruptly procure any witness to comitt willfull and corrupt perjury in any matter or cause depending in Suit and Varience in any of the Courts of Judicature in this province, or shall unlawfully and corruptly procure and suborn any Witness to testify upon Oath or Affirmation, in any matter, Cause or thing whatsoever, such Offender shall forfeit the Sum of forty pounds, one half thereof to the Governour, for the support of this Governm^{t}, and the other half to the party grieved: But for want of Lands, Goods, or Chattles to satisfy the said forty pounds, every such Offender, being convicted or attainted of perjury or Subornation aforesaid, shall, for his said Offence, suffer Imprisonm^{t} by the Space of Six Months, without Bail, and stand on the pillory the space of one whole hour, in some Market-Town or publick place where the offence was committed; and shall suffer all the other punishments, penalties, forfeitures and disabilities which are inflicted upon such offenders by any Law or Statute of Great Britain.

Penalties, &c., on subornation of perjury.

And That the Statute made in the fifth year of Queen Elizabeth, *Chapter y^{e} 9th Entituled, An Act for punishm^{t} of such persons as shall procure or comit any willfull perjury*, shall be observed in this province, and be duely put in Execution, as well against those that shall falsify their affirmations, as those who shall falsify their oaths or be convicted of Subornation of perjury.

The statute of 5th of Elizabeth, chapter 9, against perjury shall be observed here.

And be it further Enacted by the authority afores^{t}, That in all cases where any person or persons have been or shall be found guilty of any of the said crimes, for which Judgment of Death should or may ensue, and shall be reprieved to prison without Judgment, at that time given him, her or them so found Guilty; that those who now are, or hereafter shall be assigned Justices, to deliver the Gaol where any such Guilty persons shall remain, are hereby impowered and authorized to give Judgment of Death, and award Execution against such persons so found Guilty and Reprieved, as the same Justices before whom such person or persons was or were found Guilty, might have done before such reprieve.

Justices of gaol delivery to give judgments, &c., against persons so reprieved.

And that no manner of process or suit made, sued or had before any of the King's Justices of the Supream or provincial Court, Gaol-Delivery, Oyer and Terminer, Justices of the peace, or other the King's Commissioners, in this province, shall not in anywise be discontinued by the making and publishing of any new Commission or Association, or by altering the names of the Justices of the said Supream Court, Gaol-Delivery, Oyer and Terminer, Justices of peace, or other the King's Commissioners; but that the new Justices of said Supream Court, Gaol Delivery, and of the peace, and other Commissioners, may proceed in every respect as if the old Commissions and Justices, and Commissioners, had still remained and continued unaltered.

No process to be discontinued by issuing new commissions for justices, &c.

And that no process pleas, plaints, suits, actions or proceedings whatsoever, which now are, or at any time hereafter shall be commenced, sued, brought or depending before any of the said Justices of the Supream Court, Justices of the

Nor by the death or removal of the proprietary, &c.

Court of Common-Pleas, or other the King's Justices, Commissioners or Magistrates in this province, shall be discontinued, or put without day, by reason of the Death or removal of the proprietary or his Lievtenant Governour of this province, or by the Death, new Commission or not coming of the said Justices or Commissioners, or any of them; but shall stand good and effectual in Law to all intents and purposes notwithstanding the Death or Removal of the said proprietary and Governour, or of the Death, new Commission, Association, or not coming of the said Justices or any of them.

The punishment of persons convicted of larceny; for the first offence.

*And be it further Enacted by the authority afores*ᵈ, That if any person or persons, after the first day of October, in this present Year One Thousand Seven Hundred and Eighteen, shall committ any simple larceny, which is not by this Act made felony of Death, and be duly convicted thereof at the Court of Quarter Sessions of the peace, to be held for the respective County where such offence is committed, or where the offender becomes accessary in this province, he, she, or they so offending, their aiders, comforters and abettors, shall, for the first offence, restore the Goods and Chattles so stolen to the right owner or owners thereof, or shall pay him or them the full value of such goods, or so much of them as cannot be restored; which Value shall be sett by such persons as the Court, before whom such offenders are convicted, shall appoint to do the same, upon their Oaths or affirmations; and the said offenders shall also pay the costs of prosecution, with all such other sums of money as the same Court shall allow for such Owner or Owners loss of time, charges and disbursements in the apprehending and prosecution of such offenders.

And moreover shall forfeit and pay the like Value of the goods to the Governour for the support of this Government, and shall be committed to the common gaol of the County where they are convicted, there to remain till they make satisfaction for all the sums so to be adjudged or recovered against them, and moreover shall be publickly whiped on his or their Bare Backs with stripes well laid on, not exceeding Twenty One.

For the second offence.

And that he or they who shall so as aforesaid be convicted of the second offence, and his and their aiders, comforters and abettors, shall pay to the right Owner or Owners of the Goods and Chattles so stoln, the full Value of such Goods and Chattles, or of so much of them as are not restored; which Value shall be set as aforesaid, and the said Offenders shall also pay the costs and charges aforesaid; to be allowed as above mentioned.

And moreover, shall forfeit and pay, the double Value of the said goods to the Governour for the support of this Government, and shall be committed to the common Gaol of the County where they are convicted, there to remain till they make satisfaction as aforesaid, and shall be publickly whipt on their Bare Backs, with stripes well laid on, not less than Twenty one, nor exceeding forty.

And he or they who shall be so as aforesaid convicted of

the third offence, and his or their aiders or abetters, shall pay to the right owner or owners of such stolen goods the full Value thereof to be set as aforesaid, and the said offenders shall also pay the Costs and Charges aforesaid, to be allowed as aforesaid; and shall also forfeit and pay the like treble Value to the Governour for the support of this Government, and shall be committed to the County Gaol, there to remain till they make satisfaction as aforesaid; and shall be publickly whip[t] on his or their Bare Backs, with stripes well laid on, not less than Thirty-nine, nor exceeding fifty. For the third offence.

And that the said Justices before whom such offenders shall be tryed and convicted of the third offence, shall also, at their discretion, award and give Judgment, that such offenders shall be sent to some house of correction, or publick work house, and there to be set at Work, corrected, and remain without Bail for such time as the said Justices shall then judge and award, not less than twelve months, and not exceeding four years, to be accounted from the time of such conviction, and an entry shall be thereof made accordingly, as is herein above directed in other cases.

Provided always, and be it further Enacted by the authority aforesaid, That none of the said imprisonments hereby awarded, as part of the punishment of the said offenders, or any of them, shall stop or avoyd the awarding or taking out of executions to levy so much of the respective sums recovered against them as aforesaid, as such offenders refuse or neglect to pay when such writts are taken out, which executions shall be directed to the Sheriff or Coroner of the proper County, requiring him to levy the sums due upon such recoverys as aforesaid, of the Lands and Tenements, Goods and Chattles of such offenders, returnable to the Court of Quarter Sessions next after the date or test of such Writts, which shall be executed accordingly, and the Lands, Goods and Chattles thereby seized shall be sold and conveyed by the said officers; and such sales shall be as available and effectual in Law as any other sales of Lands taken and sold for payment of debts by virtue of Writts of Execution, awarded out of the Courts of Common pleas in the said respective Counties. Imprisonments, &c., not to stop execution against their estates. The form of such executions.

And be it further Enacted by the authority aforesaid, That all the said forfeitures arising from offenders who shall be convicted of the said Simple Larcenys, and by this Act directed to be applyed for support of Government, shall be duely levyed by the Sheriffs of the respective Countys, and shall be paid into the Treasury of this province from time to time, as soon as the same can be levyed; and the provincial Treasurer for the time being shall keep true and just accounts thereof, and shall issue and pay the same to the use and publick service of this Government. Forfeitures shall be paid to the provincial treasurer.

Provided, That the forfeitures arising from the said Simple-Larcenys committed within the City of Philadelphia shall go as their charter directs. Excepting Philadelphia.

Provided also, and it is hereby Enacted and declared, That the testimony of the said owners of stoln Goods shall be allowed and taken to be good evidence to convict the said The testimony of owners of stolen goods to be evidence.

Repeal of two laws.

fellons for such stealing: And that the Law of this province, Entituled, *An Act against Robbing and Stealing*, passed in the fourth year of the late Queen Ann; and another act directing the punishment of petty Larceny under five shillings, shall be and are hereby repealed.

Such as compound for stolen goods forfeit twice the value, &c.

And be it further Enacted by the authority aforesaid, That if any person or persons shall agree or compound or take satisfaction for any stealing, or goods stoln, such person shall forfeit twice the Value of the Sums agreed for or taken: But no person shall be debarred from takeing his goods back which are stoln, provided he prosecute the felon.

No indictment, &c., now depending shall be discontinued.

Provided always, and be it further Enacted by the authority aforesaid, That no indictment, presentment, or inquisition, or any process whatsoever, now depending in any Court within this province for any of the crimes or offences mentioned in this Act, shall be discontinued, abated or quashed for or by reason of this Act, or anything therein contained; but that the Judges and Justices of the respective Courts within this province shall proceed to hear, try and determine the said offences in such indictments, presentments and inquisitions mentioned to be committed against any Act or Acts of Assembly of this province as were in force at the time of finding, makeing or takeing the said indictments, presentments and inquisitions, and thereupon to give Judgement, and award Execution, according to the direction of the said respective Acts of Assembly, upon which the said indictments, presentments or inquisitions are founded, as if the same Act or Acts of Assembly were by a special clause in this Act continued for that purpose; any thing herein contained to the contrary notwithstanding. Signed by order of the house of Representatives. Will^m^ Trent Speaker.

Passed May 31^st^ 1718.

Recorded law book A, Vol. 2. p. 190.

Approved and confirmed in Kings Council May 26, 1719.

COMMISSION AND INSTRUCTIONS TO CHESTER COUNTY JUSTICES.

Pensilvania:

George, by the Grace of God, King of Great Britain, France and Ireland, Defender of ye Faith &c, To Jasper Yeates, John Wright, Caleb Pusey, Richard Webb, Henry Neale, Richard Hayes, Henry Pierce, Nathaniel Newland, John Wood, Joseph Cockburn, Henry Hayes, James Gibbons, Andrew Job, Elisha Gatchel, John Cartlidge, Francis Worley and Isaac Taylor of ye County of Chester, Esqrs. sends greeting:

Powers, duties, and jurisdictions, as justices

Reposing Special trust and confidence in your Loyalty, Prudence, Integrity & Ability, Know yee that wee have assigned you jointly & severally and every of you, our Justices to keep our peace and to deliver our goals in the County

afores[d], and to keep and cause to be kept all Laws & Statutes made for ye good of our peace, and for ye Conservation of ye same, & for the quiet rule and government of our people, in all the articles thereof in our sd. County, according to the Form and Effect of ye same, and to Chastize and punish all persons offending against those Laws & Statutes or any of them, within ye sd. County, according as ye same Laws do or shall dirict; And to cause to come before you or any of you, all those persons who shall threaten any of the people in their persons, or in burning their houses, to find sufficient security for the peace, or for ye good Behaviour towards us & ye people, and if they shall refuse to find such Security, then to cause them to be kept safe in Prison until they find such Security. of the peace.

Wee have also Assigned you, or any three or more of you, our Justices to inquire by the Oaths or affirmation of good & lawful men of ye said County, by whom the Truth may be the better known, of all and all manner of Felonies (which are not by the Laws of this Province made Felonies of Death) Witchcrafts, Inchantments Sorceries, Magick Arts, Tresspass, Forestalling, Regratings, Ingrossings and Extortions whatsoever, And of all and singular other misdeeds and offences, of which Justices of Gaol Delivery, or Justices of the Peace, may or ought Lawfully to inquire, by whomsoever or howsoever done, or perpetrated, or which hereafter shall happen howsoever to be done, or attempted in ye County afores[d]: And of all those who in the County afores[d] have either gone or ridden, or hereafter shall presume to go or ride in Companies, with armed force against the Peace to the Disturbance of the people; and also of all those who in like manner have lain in wait or hereafter shall presume to lie in wait, to maim or kill our people: And also of Inholders, and of all and singular other persons who have offended, or attempted, or hereafter shall presume to offend, or attempt, in the abuse of Weights or Measures, or in the Sale of Victualls against the form of the Laws or Statutes, or any of them in that behalf made for the com'on good of our people in the County aforesaid: And also of all Sheriffs, Constables Goalers, and other officers whatsoever, who in the Execution of their office about the premises, or any of them, have unlawfully demeaned themselves, or hereafter shall presume unlawfully to demean themselves, or have been, or hereafter shall be careless and negligent in the sd. County: And of all and singular articles and Circumstances, and all other things whatsoever, by whomsoever and howsoever done or perpetrated in the County afores[d], or which hereafter shall happen howsoever to be done, or attempted in any ways, morefully concerning the truth of the premises or any of them. And to inspect all Indictments before you, or any of you, taken or to be taken, or taken before the late Justices of the Peace of the s[d] County, and not as yet determined, and to make and Continue the process thereupon, against all and singular the persons so indicted, or which hereafter shall happen to be indicted before you, until they be apprehended or render themselves, or be outlawed; and to hear and deter- Any three of the said justices shall deliver the jails, &c.

mine according to Law all Crimes and Offences whatsoever, properly determinable before you according to the Laws of Great Britain and of this Government. And to chastize and punish, all persons offending in the premises, and every of them for their offences by fines, Ransoms, Amerciam^{ts}, Forfeitures or otherwise, as ought and hath been used to be done according to the Laws & Customs of England or the form of the Statutes aforesaid. And therefore you are hereby strictly commanded that you diligently attend the keeping the Peace, Laws & Statutes, and all and singular other the premises. And at certain days and places which you, or any three of you, shall in that behalf appoint, you make enquires upon the premises, and hear & determine all and singular the premises, and perform and fulfill the same in form aforesaid. Doing therein that which to Justice appertaineth according to the Laws and Customs aforesaid.

And Wee Command by virtue of these presents the Sheriff of the Said County of Chester, that at certain days and places which you, or any three of you, shall make known to him, He Shall cause to come before you or any three or more of you, such and as many good and lawful men of his baily-wick, as well within liberties as without, by whom the truth in the premises may be the better known and enquired of.

And wee do hereby impower you in or out of sessions to take all such Recognizances and obligations as any Justices of the peace in Great Britain may can or usually do, and the same recognizances to certify discharge and cancel as the Law doth or shall direct or allow.

Assigument as justices of common pleas, &c.

And we do also assign you the sd. Jasper Yeates John Wright, Caleb Pusey, Richard Webb, Henry Neale, Richard Hayes, Henry Pierce, Nathaniel Rowland, John Wood, Joseph Coburn Henry Hayes, James Gibbons, Andrew Job, Elisha Gatchell, John Cartlidge, Francis Worley and Isaac Tayler Justices of our Court of Common Pleas for the s^{d} County of Chester, Requireing and Commanding you or any three or more of you, to hold pleas of Assizes, Scire facias, Replevins, and to hear and determine all and all manner of Pleas, Actions, Suits, & Causes, Civil, Personal, Real and mixt, before this time Commenced, now depending, or which hereafter Shall be Commenced, or brought in the s^{d} Court of Common Pleas, and to proceed therein at the times and places, and according to the rules of practice heretofore lately used, or which hereafter may be settled to be observed in the s^{d} Courts within this province.

Special courts.

And also to hold Special Courts for the more speedy determination of causes of such Defendants as are about to depart this Government pursuant to the late practice:

Orphans' court.

And also to hold Orphans Courts at the times & places and according to the Rules & practice lately used in the Orphans Courts held for this Province.

And also Wee constitute and appoint and full power and authority grant unto any one, or more of you, the s^{d} Justices, who have been qualified by taking the oaths distinctly and separately from such of your number as by the Laws of this government are only qualified by affirmation, to administer

as well in any of the s[d] Courts while sitting, as out of the same, all and every such Oaths as shall be found necessary for doing of justice.

In testimony whereof wee have caused the Great Seal of government in our said Province of Pensilvania to be hereunto affixed. Test William Keith Esqr, by and with our Royal approbation and appointment Governour of the s[d] Province & Counties of New Castle, Kent & Sussex upon Delaware at Philadelphia the twenty fourth day of November in the sixth year of our Reign Annoq Dom. 1719

W. KEITH

Recorded the 24 November 1719
Patent Book A, Vol. 5, 389

PROVINCIAL JUDGE'S COMMISSION

Pensilvania: George, By the Grace of God King of Great Britain, France and Ireland, Defender of the faith &c. To David Lloyd, Jasper Yeates, Richard Hill and W[m] Trent, Esqrs, our Justices of the Supream Court of our Province of Pensilvania Greeting. Know ye that we have assigned you & two of you, our Justices to enquire by the oaths & affirmations respectively, of honest and lawful men of the respective Counties of the sd. Province, & every of them, and by other ways, manners and means, which you shall better understand, or can doe, as well within Liberties as without, by whom the truth of the matter may be the better known, of all Treasons Murthers and such other crimes as are or shall by the Laws of this Province be made Capital or felonies of death, and the accessories thereof, within the s[d] respective Counties and every of them as well within liberties as without, by whomsoever or howsoever had, done, perpetrated or committed, & by whom & to whom, when, how, and in what manner, And of other articles & circumstances in any manner concerning the premises, & every of them, And to hear and determine the s[d] Treasons, Murthers and other the premises according to Law, and upon Conviction of any person or persons, judgment or sentence to pronounce and give, and execution thereupon to award. Preamble.

And we have appointed you the said David Lloyd, Jasper Yeates, Richard Hill and William Trent, Esqrs, and any two of you, our Justices to deliver the goals of the s[d] respective Counties, and of every of them, of the prisoners in the same being, And therefore we command you that at certain days which you, or any two of you shall consider of, you meet together at the Court houses in the sd. respective Counties, to deliver the sd. Goals & make diligent enquire of, and upon the premises, and hear and determine all and singular the same premises, and doe and accomplish those things in form afores[d] doing therein, that which to justice pertains according to Law. Saving to us the amerciaments & other things

to us thereof belonging; for we have commanded the Sheriffs of the said respective Counties, that at certain days which you or any two of you Shall make known to them, to cause to come there before you, or any two of you, all the Prisoners of the s[d] Goals & their attachments, as also so many and such honest & lawful men of his Bailywick (as well within libertie, as without) by whom the truth of the matter may be the better known & enquired.

In witness whercof we have caused these Letters to be made pattents. Witness W[m] Keith, Esqr, by & with our Royal approbation & appointmt, Governour of the s[d] Province &c Given at Philadelphia under the Great Seal of our said Province, the Twenty sixth day of March in the sixth year of our Reign, Annoq Domini 1720

W. KEITH

Recorded the 26 of March 1720
Patent Book A. vol. 5 page 399

COURT OF CHANCERY.

By William Keith Esqr. Govern[r] Of the Province of Pensivania & Counties of New Castle, Kent & Sussex, upon Delaware. A. Proclamation.

Proclamation.

Whereas Complaint has been made, That Courts of Chancery or Equity are absolutely necessary in the Administration of Justice, for mitigating in many cases the Rigour of ye Laws, whose Judgments are tied down to fixed and unalterable Rules, and for Opening away to the Right and Equity Of a Cause for which the Law cannot in all cases make a Sufficient Provision. Have notwithstanding been but toe seldom regularly held in this Province, in such a manner as ye aggrieved Subject might obtain the Reliefe which by such Courts ought to be Granted. And Where as, the Representatives of ye Freemen of this Province taking ye same into Consideration, did at their last meeting in Assembly request me that I would with ye assistance of ye Council, Open and hold such a Court of Equity for this Province, To ye end therefore that his Majesties good Subjects may no longer Labour under these inconveniences which are now Complained Of, I have thought fitt, by and with the advice of the Council, hereby to Publish and Declare, That with their assistance I Purpose (God Willing) to open and hold a Court of Chancery or Equity, for this Province of Pensilvania, at ye Court House of Philadelphia, on Thursday the Twenty fifth day of this instant August, From which Date the Said Court will be and remain Always Open for the Reliefe of ye Subject, to hear and Determine all such matters arrising within the Province afores[d], as are regularly Cognizable before any Court of Chancery, According to ye Laws and Constitution of that part of Great Britain called England. And his Majesties Judges of his Supream Court,

as well as ye Justices of the Inferior Courts, and all others whom it may Concern, are required to take Notice hereof, and to govern themselves Accordingly. Given at Philadelphia, ye tenth day of August, in the Seventh year of the Reign of our Sovereign Lord George King of Great Brittain, France & Ireland, Defender of the Faith &c. Annoq. Domini 1720 W. Keith—God Save the King (Recorded the 13 Augt. 1720)

Patent Book A 5, p. 403.

AN ACT

For Establishing Courts of Judicature in this province.

Whereas the late King Charles the Second by his Royal Charter and Grant to William penn Esq^r^ of That Tract of Land called Pennsilvania, and for erecting the same into a province, Did for himself, his heirs and successors, grant free, full and absolute power to the said William penn, and his heirs, and to his and their deputies and Lieutenants, for the good and happy Government of the said Country, by and with the Avice, Assent and Approbation of the Freemen of the said Country, or of the greater part of them, or their Delegates or Deputies, in Assembly, when and as often as Need should require, to ordain, make and enact any Laws whatsoever, for the public State, peace and Safety of the said Country, or unto the private Utility of particular persons, unto their best Discretion; And likewise, to do all and every thing and things which unto the compleat Establishment of Justice, unto Courts and Tribunals, Forms of Judicature and Manner of proceedings do belong, And, by Judges, by the said William Penn, his Heirs their Deputies and Lieutenants, appointed to award process, hold pleas, and determine in all the said Courts and Tribunals all Actions, Suits and Causes whatsoever, as well Criminal as Civil, personal, Real and mixt; Provided the said Laws so made and published be consonant to Reason, and not repugnant or contrary, butt as near as convenient may be agreeable to the Laws, Statutes and Rights of the Kingdom of England; Saving and reserving to the said King Charles, his Heirs and Successors, the Receiving, Hearing and Determining of the Appeal and Appeals of all or any person or persons, touching any judgment, to be there made or given, Preamble.

And Whereas, by Vertue and in pursuance of the said Grant, divers Acts and Ordinances have been made from Time to Time for the holding of Courts and the Administration of Justice within this Province; which by the Increase of Inhabitants and Change of Circumstances of the Country, seem necessary to be altered and amended,

Be it therefore Enacted by Sir William Keith, Baronet Governor of the province of Pensilvania, &c. by and with the Advice and Consent of the Freemen of the said prov-

Court of quarter sessions to be held in each county four times a year.

ince in General Assembly met, and by the Authority of the same, That there shall be a Court stiled, The General Quarter-Sessions of the Peace and Gaol Delivery, holden and kept Four Times in every Year in each County of this province, viz^{t}, at Philadelphia, for the County of Philadelphia, on the First second Day of the Week called Monday, in the Months called March, June, September and December; At Bristol, for the County of Bucks, on the eleventh Day following (inclusive) in every of the same Months; And at Chester, for the County of Chester, on the last Third Day of the Week called Tuesday in the Months called May, August, November and February.

The governor shall commission justices, who are to hold the said court.

And That there shall be a competent Number of Justices in every of the said Counties nominated and authorized by the Governor or Lieutenant Governor for the Time being, by Commission, under the Broad Seal of this province: Which said Justices, or any Three of them, shall and may hold the said General Sessions of the peace and Goal Delivery according to Law, and as fully and effectually as any Justice of the peace, Justice of the Assize, Justices of Oyer a... Terminer, or of Gaol Delivery may or can do.

Private sessions.

And Be It Further Enacted, That the said Justices of the peace, or any three of them may pursuant to their said commissions, hold special and private sessions when and as often as Occasion shall require; and that the said Justices, and every of them, shall have full power and Authority, in or out of sessions, to take all Manner of Recognizances and Obligations, as any Justices of the peace of Great Britain may, can or usually do; All which said Recognizances and Obligations shall be made to the King and his Successors. And all Recognizances for the peace, Behaviour, or for Appearance, which shall be taken by any of the said Justices out of Sessions, shall be Certified into their said General Sessions of the peace, to be holden next after the taking thereof: And every Recognizance taken before any of them, for Suspicions of any Manner of Fellony, or other Crime not tryable in the said Court of Quarter Sessions of the Peace and Gaol Delivery, shall be certified before the said Justices of the Supream Court of Oyer and Terminer, at their next succeeding Court, to be holden next after the Taking thereof, without Concealment, Detaining or Imbezzelling of the same, But in case any person or persons shall Forfeit his Recognizances of the peace, Behaviour or Appearance, for any Cause whatsoever Then the said Recognizance so forfeited, with the Record of the Default or Cause of Forfeiture shall be sent and certified without Delay, by the Justices of the peace, into the said Supream-Court, as the case may require, That thence process may issue against the said partees, according to Law, All which Forfeitures shall be levied by the proper Officers, and go to the Governor for Support of Government.

Power to take recognizances out of sessions; which shall be certified into the next quarter sessions.

All fines to be affeered in the sessions, and yearly estreated into the supreme court.

And be it further Enacted, That all Fines and Amerciaments which shall be laid before the Justice of the said Courts of General Quarter Sessions of the Peace and Gaol Delivery shall be taxed, affered and set duly and truly, ac-

cording to the Quality of the Offence, without partiality or Affection and shall be yearly estreated by the Clerks of the said Courts respectively into the said Supream Court, to the Intent that process may be awarded to the Sheriff of every County, as the Case may require, for Leving such of their Fines and amerciaments as shall be unpaid, to the Uses for which they are or shall be appropriated.

Quarter sessions shall continue three days in Philadelphia, and two days in each of the other counties.

Provided always, That the said Courts of the General Quarter-Sessions of the peace may be kept and continued for the Space of three Days in the County of Philadelphia, at any of the Times herein before appointed to hold and keep the same Courts and Sessions there; and for the Space of two Days in either of the said Counties of Bucks and Chester respectively, at any of the said Times hereinbefore appointed to hold and keep the said Courts and Sessions there, in manner aforesaid.

This act not to abridge the powers of the corporation of Philadelphia.

Provided also, That nothing herein contained shall deprieve or abridge the Mayor, Recorder and Aldermen of the City of Philadelphia of any powers, privileges, jurisdictions or franchises, granted them by Charter or the laws of this province.

Writs of *capias*, *subpœnas*, &c., granted in one county to operate in another.

And to the End That persons Indicted or out-lawed for Fellonies, or other Offences, in one County or Town corporate, who dwell, remove or be received into another County or Town corporate, may be brought to Justice, *Be it further Enacted*, That the said Justices or any of them, shall and may direct their writs or precepts to all or any of the sheriffs or other officers of the said counties or Towns corporate within this province, where need shall be, to take such persons indicted or out-lawed, And that it shall and may be lawful to and for the said Justices, and every of them to issue forth *subpœnas*, and other warrants, under their respective hands and Seal of the county into any county or place of this province, for summoning or bringing any person or persons to give evidence in and upon any Matter or Cause whatsoever, now or hereafter examinable or in any ways tryable by or before them, or any of them, under such Pains and Penalties as supbœna's or Warrants of that Kind usually are or ought by Law to be Granted or awarded.

Persons aggrieved, &c., may have their writs of error returnable to the supreme court.

And be it further Enacted by the authority aforesaid, That if any person or persons shall find him or themselves aggrieved with the Judgm[t] of any of the said Courts of General Quarter Sessions of the peace and Gaol Delivery or any other Courts of Record, within this province, it shall and may be lawful to and for the party or parties so aggrieved to have his or their Writ or Writs of Error; which shall be granted them of course, in Manner as other Writs of Error are to be granted and made returnable to the said Supream Court of this province.

Of proceedings at the city sessions, only the tenor, &c., to be certified into the supreme court.

Provided always, That when any Writ of Error shall be granted upon any Judgment given or to be given for the City of Philadelphia, The Mayor, Recorder and Aldermen of the said City of Philadelphia, and their successors, or any of them, shall not be compelled upon any of the said Writs, or any other Writ or Writs directed to them, or any

of them, to remove, send or certify into the said Supream Court, or elsewhere, any of the Indictments or presentments taken or to be taken before them, or the Record of the Judgments and proceedings upon any such Indictments or presentments; but only the Tenors or Transcripts of the said Records under their common seal, and after such Judgments are reversed or affirmed, or Causes lawfully removed from the said City Courts are tried in the said Supream Courts, it shall and may be lawful for the Mayor, Recorder and Aldermen, and their Successors, to proceed to Execution or otherwise, as shall appurtain according to law.

The supreme court of Pennsylvania to be held at Philadelphia.

And be it further Enacted by the authority aforesaid, That there shall be holden and kept at Philadelphia, a Court of Record twice in every Year, That is to say, On the Twenty fourth Day of September, and the Tenth Day of April, if the same Days, or either, do not happen to be on the First Day of the Week, and in such Case the said Court shall be held on the next Day following; Which said Court shall be called and stiled The Supream Court of Pensilvania, And

Three justices shall be commissioned.

that there shall be Three persons of known Integrity and Ability, commissionated by the Governor or his Lieutenant for the Time being, by several distinct patents or Commissions under the Great Seal of this province, to be Judges of the Said Court; one of whom shall be distinguished in his

They shall issue remedial writs, &c.

Commission by the Name of Chief Justice, And every of the said Justices shall have full power and Authority, by Vertue of this Act, when and as often as there may be Occasion, to Issue forth Writs of *Habeas Corpus*, *Certiorari* and Writs of Error, and all Remedial and other Writs and process, returnable to the said Court, and grantable by the said Judges by Vertue of their Office, in pursuance of the powers and Authorities hereby given them.

Issues joined in the said court shall be tried in the proper county.

Provided always, That upon any Issue joined in the said Supream Court, such Issue shall be tryed in the County whence the Cause was removed, before the Judges aforesaid, or any Two of them, who are hereby impowered and required, if Occasion require, to go the Circuit Twice in every Year into the respective counties of Chester and Bucks, To try such issues in Fact as shall be depending in the said Supream Court, and removed out of either of the Counties aforesaid, That is to say, in the County of Bucks on the Fourteenth Day of April, and the Twenty-eighth Day of September; and in the County of Chester on the eighteenth day of April, and the Second Day of October, in every Year; When and where they may trye all Issues, joined or to be joined, in the same Supream Court, and to do generally all these Things that shall be necessary for the Tryal of any Issue, as fully as Justices of Nisi Prius in England may or can do.

Powers of the judges.

And that the said Judges or any Two of them, shall have full Power to hold the said Court, and therein to hear and determine all Causes, Matters, and things cognizable in the said Court; and also to hear and determine all and all manner of pleas, plaints and Causes which shall be removed or brought there from the respective General Quarter Sessions of the peace and Courts of Common Pleas, to be held for the

respective Counties of Philadelphia, Chester and Bucks, as also for the City of Philadelphia, or from any other Court of this province, by Vertue of any of the said Writs: And to examine and correct all and all Manner of Errors of the Justices and Magistrates of this province in their judgments, process and proceedings in the said Courts, as well in all pleas of the Crown, as in pleas Real, personal and mixt; and thereupon to reverse or affirm the said Judgments as the Law doth or shall direct: And also to examine, correct and punish the Contempts, Omissions and Neglects, Favours, Corruptions and Defaults of all or any of the Justices of the Peace, Sheriffs, Coroners, Clerks and other Officers within the said repective Counties.

And Also, shall award process for Levying, as well of such Fines, Forfeitures and Amerciaments as shall be Estreated into the said Supream Court, as of the Fines, Forfeitures and Amerciaments which shall be lost, tax'd and set there, and not paid to the Uses they are or shall be appropriated.

And generally shall minister justice to all persons and exercise the Jurisdictions and powers hereby Granted concerning all and singular the premises according to Law, as fully and amply to all Intents and purposes whatsoever as the Justices of the Court of King's Bench, Common pleas and Exchequer at Westminster, or any of them, may or can do.

Saving the right of appeal to Britain.

[Saving to all and every person or persons, his her or their Heirs, Executors and Administrators, their Right of Appeal from the final Sentence, Judgment or Decree of any Court within this province, to his Majesty in Council, or to such Court or Courts, Judge or Judges, as by our Sovereign Lord the King, his heirs and Successors shall be appointed in Britain to receive, hear and judge of the Appeals from His Majesty's Plantations.]

The appellant shall give bond in three hundred pounds, &c.

Provided the person Appealing shall upon entering his Appeal in the Court where the Sentence, Judgment or Decree shall be given in this province, pay all the Costs before that Time expended in the prosecution, or defending the said suit: And shall further enter into Bond, with two good and sufficient Securities, in the Sum of Three hundred pounds, to the Defendant in the Appeal, Conditioned to prosecute the said Appeal with Effect, within the Space of Eighteen Months after the Entry of such Appeal, And to satisfy the Judgment of the Court from which he Appeals. And further to pay all such Costs and Damages as shall be adjudged to him to pay, in Case a Sentence, Judgment or Decree pass against the said Appellant, or in case he, she or they fail to prosecute their Appeal with Effect.

Governor to commission the prothonotary of the supreme court.

And that there shall be a fit person nominated by the Judges, and Commissionated by the Governor, to be prothonotary or Clerk of the said Supream Court, Who shall keep and duly attend his Office at some convenient Place in the City of Philadelphia, and may be suspended, punished or amoved by the said Court for Misdemeanors in his Office.

How writs shall be granted and bear test.

And be it further Enacted, That all the said Writs shall be granted of Course, and made in the Name and Stile of the King, his Heirs and Successors, and shall bear Test in

the Name of the chief Justice for the Time being; But if he be plaintiff or Defendant, in the Name of one of the other, justices, and shall be sealed with the Judicial Seal of the said Court, and made returnable to the next Court after the Date of such writs.

No provincial judge shall sit in the inferior courts.

Provided Always, That none of the Judges of the said Supream or provincial Court shall sit Judicially in any of the said Courts of Common pleas, Quarter Sessions, or any other inferior Court in this province.

The said judges to deliver the gaol of prisoners for treasons, murders, &c.

And be it further Enacted by the Authority aforesaid, That the said Judges of the Supream Court shall have power, and are hereby authorized and Impowered from Time to Time to deliver the Gaols of all persons which now are or hereafter shall be committed for Treasons, Murthers, and such other Crimes as (by the Laws of this province) now are or hereafter shall be made Capital or Fellonies of Death as aforesaid: And for that End from time to time to issue forth such necessary precepts and process, and force Obedience thereto as Justices of Assize, Justices of Oyer and Terminer and Gaol Delivery may or can do in the Realm of Great Britain.

Felonies committed in the out parts of the province, to be tried in Philadelphia.

And also, That all manner of Offences already made or declared, or hereafter to be made or declared to be Capital or Fellonies of Death by any Law or Act of Assembly of this province, and done, perpetrated or committed, or hereafter to be done perpetrated or committed by any person or persons within the Bounds and Limits of the same province, and without the certain and known Bounds and Limits of any of the Counties now or hereafter erected in the said province, shall be from henceforth enquired of, heard and determined before the said Judges, by good and lawful Men of the City and County of Philadelphia, in like Manner and Form to all Intents and purposes as if the said Offences and Fellonies of Death, had been done, perpetrated and committed within the said City or County of Philadelphia.

Fees in the supreme court.

Provided Always, That the Fees due to the Judges and Officers of the said Court for Hearing and Determining any of the said capital Offences for any thing done there shall be double the Fees usually taken in the General Quarter Sessions held in any of the said Counties in this province; anything herein, or in any other Law to the contrary notwithstanding.

County court of common pleas shall be held four times a year in each county.

And be it further Enacted, by the Authority aforesaid, That a competent Number of Persons shall be commissionated by the Governor or his Lieutenant under the Broad Seal of this province, who shall hold and keep a Court of Record in every County, which shall be stiled and called the County Court of Common Pleas, and shall be holden four Times in every Year, at the places where the General Quarter Sessions shall be respectively kept, viz', at Philadelphia, for the County and City of Philadelphia, on the Day called the first Wednesday after the Day appointed for the Quarter Sessions to begin on there, in the Months called March June September and December; At Bristol for the County of Bucks, on the eleventh Day following, (inclusive); And at Chester, for

the County of Chester, on the Day called the last Tuesday in the Months called May, August, November, and February. Which said Justices, or any Three of them (according to the Tenor and Direction of their Commissions) shall hold pleas of Assizes, Scire Facias, Replevins, and hear and determine all and all Manner of pleas, Actions, Suits and Causes, civil, personal, Real and mixt, according to the Laws and Constitutions of this province.

Justices of the said court shall grant replevins, &c.

*And be it further Enacted by the authority afores*ᵈ, That every of the said Justices shall and are hereby Impowered to Grant, under the seal of the respective Counties, Replevins, Writs of partition, Writs of View, and all other Writts and process, upon the said pleas and actions Cognizable in the said respective Courts, as Occasion may require.

And issue *subpœnas* for evidence into any county.

And be it further Enacted, That the said Judges of the said respective Courts shall and are hereby Impowered to issue forth subpœna's under their respective Hands and Seal of the Counties, into any County or place of this province, for summoning or bringing any person or persons to give evidence in or upon the Tryal of any Matter or Cause whatsoever depending before them or any of them, under such pains and penalties as by the rules of the Common Law and Course of practice of the King's Courts at Westminster are usually appointed.

An *alias* execution may be granted, directed to the sheriff of another county.

And be it further enacted, That upon any Judgment obtained in any of the said Courts of this province, and Execution returned by the Sheriff or Coroner of the proper County where such Judgment was obtained, That the party is not to be found or hath no Lands or Tenements, Goods or Chattles in that County, and thereupon it is testified that the party skulks, or lies hid, or hath Lands, Tenements, Goods or Chattles in another County of this province, it shall and may be lawful to and for the Court that issued out such Execution to Grant, and they are hereby required to Grant, an *Alias* Execution, with a *Testatum*, directed to the Sheriff or Coroner of the County or place where such person lies hid, or where his Lands or Effects are, commanding him to execute the same according to the Tenor of such Writ or Writs, and make Return thereof to the Court of Common pleas where such Recovery is had or Judgment given. *And* if the Sheriff or Coroner (to whom such Writ or Writs shall be directed) shall refuse or neglect to execute and return the same accordingly, he shall be amerced in the Court where he ought to return it, and be liable to the action of the party grieved: And the said amerciaments shall be truly and duly set, according to the Quality of the Offence, and estreated by the prothonotaries of the respective Courts of Common pleas of this province into the next succeeding Supream or proviucial Court in Course, that thence process may issue out against the Offenders for levying of such Fines and Amerciaments as shall be unpaid, to the Uses for which they are or shall be appropriated.

The defendant may have a special court, in case of sudden departure.

And be it further enacted by the authority aforesaid, That if any Defendant or Defendants in any suit or action, by Reason of his or their suddain Departure out of this prov-

the Name of the chief Justice for the Time being; But if he be plaintiff or Defendant, in the Name of one of the other, justices, and shall be sealed with the Judicial Seal of the said Court, and made returnable to the next Court after the Date of such writs.

No provincial judge shall sit in the inferior courts.

Provided Always, That none of the Judges of the said Supream or provincial Court shall sit Judicially in any of the said Courts of Common pleas, Quarter Sessions, or any other inferior Court in this province.

The said judges to deliver the gaol of prisoners for treasons, murders, &c.

And be it further Enacted by the Authority aforesaid, That the said Judges of the Supream Court shall have power, and are hereby authorized and Impowered from Time to Time to deliver the Gaols of all persons which now are or hereafter shall be committed for Treasons, Murthers, and such other Crimes as (by the Laws of this province) now are or hereafter shall be made Capital or Fellonies of Death as aforesaid: And for that End from time to time to issue forth such necessary precepts and process, and force Obedience thereto as Justices of Assize, Justices of Oyer and Terminer and Gaol Delivery may or can do in the Realm of Great Britain.

Felonies committed in the out parts of the province, to be tried in Philadelphia.

And also, That all manner of Offences already made or declared, or hereafter to be made or declared to be Capital or Fellonies of Death by any Law or Act of Assembly of this province, and done, perpetrated or committed, or hereafter to be done perpetrated or committed by any person or persons within the Bounds and Limits of the same province, and without the certain and known Bounds and Limits of any of the Counties now or hereafter erected in the said province, shall be from henceforth enquired of, heard and determined before the said Judges, by good and lawful Men of the City and County of Philadelphia, in like Manner and Form to all Intents and purposes as if the said Offences and Fellonies of Death, had been done, perpetrated and committed within the said City or County of Philadelphia.

Fees in the supreme court.

Provided Always, That the Fees due to the Judges and Officers of the said Court for Hearing and Determining any of the said capital Offences for any thing done there shall be double the Fees usually taken in the General Quarter Sessions held in any of the said Counties in this province; anything herein, or in any other Law to the contrary notwithstanding.

County court of common pleas shall be held four times a year in each county.

And be it further Enacted, by the Authority aforesaid, That a competent Number of Persons shall be commissionated by the Governor or his Lieutenant under the Broad Seal of this province, who shall hold and keep a Court of Record in every County, which shall be stiled and called the County Court of Common Pleas, and shall be holden four Times in every Year, at the places where the General Quarter Sessions shall be respectively kept, viz', at Philadelphia, for the County and City of Philadelphia, on the Day called the first Wednesday after the Day appointed for the Quarter Sessions to begin on there, in the Months called March June September and December; At Bristol for the County of Bucks, on the eleventh Day following, (inclusive); And at Chester, for

the County of Chester, on the Day called the last Tuesday in the Months called May, August, November, and February. Which said Justices, or any Three of them (according to the Tenor and Direction of their Commissions) shall hold pleas of Assizes, Scire Facias, Replevins, and hear and determine all and all Manner of pleas, Actions, Suits and Causes, civil, personal, Real and mixt, according to the Laws and Constitutions of this province.

Justices of the said court shall grant replevins, &c.

*And be it further Enacted by the authority afores*ᵈ, That every of the said Justices shall and are hereby Impowered to Grant, under the seal of the respective Counties, Replevins, Writs of partition, Writs of View, and all other Writts and process, upon the said pleas and actions Cognizable in the said respective Courts, as Occasion may require.

And issue *subpœnas* for evidence into any county.

And be it further Enacted, That the said Judges of the said respective Courts shall and are hereby Impowered to issue forth subpœna's under their respective Hands and Seal of the Counties, into any County or place of this province, for summoning or bringing any person or persons to give evidence in or upon the Tryal of any Matter or Cause whatsoever depending before them or any of them, under such pains and penalties as by the rules of the Common Law and Course of practice of the King's Courts at Westminster are usually appointed.

An *alias* execution may be granted, directed to the sheriff of another county.

And be it further enacted, That upon any Judgment obtained in any of the said Courts of this province, and Execution returned by the Sheriff or Coroner of the proper County where such Judgment was obtained, That the party is not to be found or hath no Lands or Tenements, Goods or Chattles in that County, and thereupon it is testified that the party skulks, or lies hid, or hath Lands, Tenements, Goods or Chattles in another County of this province, it shall and may be lawful to and for the Court that issued out such Execution to Grant, and they are hereby required to Grant, an *Alias* Execution, with a *Testatum*, directed to the Sheriff or Coroner of the County or place where such person lies hid, or where his Lands or Effects are, commanding him to execute the same according to the Tenor of such Writ or Writs, and make Return thereof to the Court of Common pleas where such Recovery is had or Judgment given. *And* if the Sheriff or Coroner (to whom such Writ or Writs shall be directed) shall refuse or neglect to execute and return the same accordingly, he shall be amerced in the Court where he ought to return it, and be liable to the action of the party grieved: And the said amerciaments shall be truly and duly set, according to the Quality of the Offence, and estreated by the prothonotaries of the respective Courts of Common pleas of this province into the next succeeding Supream or proviucial Court in Course, that thence process may issue out against the Offenders for levying of such Fines and Amerciaments as shall be unpaid, to the Uses for which they are or shall be appropriated.

The defendant may have a special court, in case of sudden departure.

And be it further enacted by the authority aforesaid, That if any Defendant or Defendants in any suit or action, by Reason of his or their suddain Departure out of this prov-

soever, for the publick State, peace and Safty of the said Country, or unto the private utility of particular Persons, according unto their best Discresion; and likewise to do all and every thing and things, which unto the compleat Establishment of Justice, unto Courts and Tribunals, Forms of Judicature, & manner of proceedings, do belong. And, by Judges, by the said William Penn, his Heirs, their Deputies and Lieutenants, appointed, to award process, hold pleas & determine in all the said Courts and Tribunals, all Actions, Suits and Causes whatsoever, as well Criminal as Civil, personal, real and mixed: Provided the said Laws so made and published be consonant to Reason, and not repugnant or contrary, but, as near as conveniently may be, agreeable to the Laws, Statutes and Rights of the Kingdom of England; Saving & Reserving, to the said King Charles, his Heirs and Successors, the receiving, hearing and determining of the appeal and appeals of all or any person or persons, touching any Judgment to be there made or given.

Preamble.

And Whereas, by Virtue and in pursuance of the said Grant, divers Acts and Ordinances have been made, from time to time, for the holding of Courts of Judicature, and the Administration of Justice within this province, which, by the Increase of Inhabitants, and Change of Circumstances of the Country, seem necessary to be altered and amended:

Court of quarter sessions to be held in each county four times a year.

Be it therefore Enacted, by the Honourable Patrick Gordon, Esqr. Governour of the Province of Pensilvania &c., by and with the advice and Consent of the Freemen of the said Province in General Assembly met, and by the Authority of the same. That there shall be a Court, Stiled the General Quarter Sessions of the Peace and Gaol Delivery, holden and kept four times in every year, in each county of this province, viz^t:—at Philadelphia, for the County of Philadelphia, on the first second Day of the Week, called Munday, in the Months called March, June, September, & December; At Newtown, for the County of Bucks, on the eleventh Day following (Inclusive) in every of the same Months: and at Chester, for the County of Chester, on the last third Day of the week, called Tuesday, in the Months called May, August, November & February.

The governor to commission justices to hold the said courts.

And That there shall be a Competent Number of Justices in every of the s^d Counties, Nominated and authorized by the Governour or Lieutenant Governour for the time being, by Commission under the Broad Seal of this Province; which said Justices, or any Three of them, shall and may hold the said General Sessions of the peace & Gaol Delivery, according to Law, and as fully and effectually, as any Justices of the peace, Justices of Assise, and Justices of Oyer & Terminer, or of Jail delivery, may or can do.

Private and special sessions may be held as occasion requires.

And Be it further Enacted, by the authority afores^d, that the said Justices of the peace of the respective Counties, or any three of them, may, pursuant to their said Commissions, hold special and private Sessions, when and as often as Occasion shall require; And that the said Justices, and every of them, shall have full power and Authority, in or out of Sessions, to take all manner of Recognizances and Obliga-

tions, as any Justices of the peace of Great Britain, may, can or usually do; all which said Recognizances and obligations shall be made to the King, and his successors. And all Recognizances for the peace, Behaviour, or for Appearance, which shall be taken by any of the said Justices out of Sessions, shall be certified into the said General Sessions of the peace, to be holden next after the taking thereof.

Recognizances may be taken out of sessions, which shall be certified into the next quarter sessions.

And every Recognizance, taken before any of them, for suspicions of any manner of Felony, or other Crime, not tryable in the said Court of Quarter Sessions of the peace and Gaol Delivery, shall be certified before the Justices of the Supream Court of Oyer and Terminer, at their next succeeding Court to be holden next after the taking thereof, without concealm[t], Detaining, or Imbesilling of the same.

Recognizances for crimes not triable by the sessions, shall be certified to the supreme court.

But in case any Person or persons shall forfeit his or their Recognizance of the peace, Behaviour, or appearance, for any Cause whatsoever, then the Justices of the said Court of Quarter Sessions shall make a Record of every such Default, or cause of Forfeiture, and Issue writs of Scire facias, and all such other process as shall be needful for the Recovery of the said Forfeitures. All which Forfeitures shall be levied by the proper officer, and paid into the provincial Treasury towards support of Government.

Recovery of forfeited recognizances.

Provided always that the said Courts of General Quarter Sessions of the peace may be kept and continued by the space of three Days in the Counties of Philadelphia, Bucks and Chester, respectively, at any of the said times hereinbefore appointed for the holding and keeping the said Courts, and Sessions, in each of the said Counties of Philadelphia, Bucks and Chester, in manner afores[d].

How long the sessions shall continue.

Provided also, that nothing herein contained shall deprive or abridge the Mayor, Recorder and Aldermen of the City of philadelphia, of any powers, privileges, Jurisdictions or Franchises, granted them by Charter, or the Laws of this province.

This act not to abridge the power of the corporation of Philadelphia.

And to the end that persons Indicted or outlawed for Felonies, or other offences, in one County or Town Corporate, who dwell, remove, or be received into another County or Town Corporate, may be brought to Justice, *Be it further Enacted*, That the said Justices, or any of them, shall and may direct their Writs or Precepts under the seal of the proper County, to which they belong, to all or any of the sheriffs or other officers of the said Counties or Town Corporate within this province, where need shall be, to take such persons Indicted or outlawed. And that it shall and may be lawful to and for the said Justices, & every of them, to Issue forth Subpœna's, and other Warrants, under their respective Hands and Seals, into any County or place of this province, for summoning or bringing any person or persons to give evidence in and upon any matter or Cause whatsoever, now or hereafter examinable, or in any wise Tryable, by or before them, or any of them, under such pains and penalties as subpœna's, or Warrants of that kind, usually are or ought by Law to be granted or awarded.

Writs of *capias*, *subpœnas*, &c., granted in one county shall operate in another.

And Be it further Enacted by the Authority afores[t], That

Persons aggrieved, may have their writs of error returnable to the supreme court.

if any person or persons shall find him or them selves agrieved with the Judgement of any of the said Courts of General Quarter Sessions of the peace and Gaol Delivery, or any other Courts of Record, within this province, it shall and may be lawful to and for the party or parties, so agrieved, to have his or their Writt or Writts of Error; which shall be granted them of Course, in manner as other Writts of Error are to be granted, and made returnable to the said Supreem Court of this province.

Of proceedings of the city sessions only the tenor. &c., shall be certified into the supreme court.

Provided always, That when any Writt or Writts of Error shall be granted upon any Judgment given or to be given for the said City of Philadelphia, the Mayor, Recorder and Aldermen of the said City of Philadelphia, and their successors, or any of them, shall not be compelled upon any of the said Writts, or any other Writt or Writts directed to them, or any of them, to remove, send or certify unto the said Supream Court, or elsewhere, any of the Indictments or presentments taken or to be taken before them, or the Record of the Judgements and proceedings upon any such Indictm^{ts} or Presentments, But only the Tenour or Transcript of the said Record, under their Common Seal. And after such Judgments are reversed or affirmed, in the said Supream Court, it shall and may be lawful for the Mayor, or Recorder and Aldermen, and their successors, to proceed to Execution, or otherwise, as to Justice shall appertain according to Law.

The supreme court shall be held twice a year at Philadelphia.

And Be it further Enacted by the authority afores', That there shall be holden and kept at Philadelphia a Court of Record Twice in every year; That is to say: on the Twenty fourth Day of September, and the Tenth Day of the Month called April, if the same Days, or either of them, do not happen to be the first Day of the Week, and in such Case the said Court shall be held on the next Day following; which said Court shall be called and Stiled, the Supream Court of Pensilvania.

Three judges shall be commissioned.

And that there shall be three persons of known Integrity and Ability, Commissionated by the Governour, or his Lieutenant for the time being, by several District Patents or Commissions, under the Great Seal of this province, to be Judges of the said Courts, one of whom shall be distinguished in his Commission by the name of Chief Justice.

They shall issue remedial writs, &c.

And every of the said Justices shall have full power and authority, by virtue of this Act, when and as often as there may be occasion, to Issue forth Writts of Habeas Curpus, Certiorari, and Writts of Error, and all remedial Writts & process, returnable to the said Court and grantable by the said Judges by virtue of their office, in pursuance of the powers and authorities hereby given them.

Powers of the judges, &c.

And That the said judges, or any two of them, shall have full power to hold the said Courts, and therein to hear and determine all causes, matters and things, cognizable in the said Court, and also to hear and determin all and all manner of pleas, plaints and Causes, which shall be removed or brought there from the respective General Quarter Sessions of the peace, to be held for the respective Counties of phila-

delphia, Bucks and Chester, as also for the City of Philadelphia, by Writts of Certiorari, or Writts of Error, or from any other Court of this province, by virtue of any of the said Writts, after final Judgement shall be given in the said Courts. And to Examin and Correct all and all manner of Errors of the Justices and Magistrates of this province, in their Judgement, process and proceedings in the said Courts, as well in all pleas of the Crown, as in all pleas real, personal and mixed; and thereupon to reverse or affirm the said Judgements, as the Law doth or shall direct: And also to Examin, Correct and punish, the Contempts, Omissions and Neglects, Favours, Corruptions and Defaults, of all or any of the Justices of the Peace, Sheriffs, Coroners, Clerks and other officers, within the said respective Counties. *And* also shall award process for Levying, all such Fines, Forfeitures and Amercements, which shall be lost, Taxed and sett, in the said Supreem Courts and not paid to the uses they are or shall be appropriated. *And* generally shall minister Justice to all persons, & Exercise the Jurisdictions and powers hereby granted them, concerning all and singular the premisses according to Law, as fully and amply to all Intents and purposes whatsoever, as the Justice of Courts of Kings Bench, and Common Pleas at Westminster, or any of them, may or can do, upon Writts of Error and other Remedial Writts, Issuing out of the said Court, Saving to all and every person or persons, his, her or their Heirs, Executors and Administrators, their Right of appeal from the Final sentence, Judgment or Decree of any Court within this province, to his Majesty in Council, or to such Court or Courts, Judge or Judges, as by our Sovereign Lord the King, his Heirs or Successors, shall be appointed in that part of Great Britain, called England, to receive, hear & Judge of appeals from his Majesties plantations.

The appellant shall pay costs of suit, and give bond to prosecute the appeal with effect.

Provided the persons appealing shall, upon Entring his or their appeal in the Court where the Sentence, Judgement or Decree, shall be given in this province, pay all the costs before that time expended in the prosecution, or defending the said suit: And shall further Enter into Bond, with two good and sufficient securities, in double the sum recovered (in the said Court) to the Defendant in the appeal, conditioned to prosecute the said appeal with Effect, within the space of Eighteen Months next after the Entry of such appeal, and to satisfy the Judgement of the Court from which he appeals: And further, to pay all such Costs and Damages as shall be adjudged to him to pay, in case a Sentence, Judgment or Decree, pass against the said appellant, or in Case he, she or they, fail to prosecute their appeal with Effect, and Execution shall be suspended untill the final determination of such appeal, unless good and sufficient security be given by the appellee, to make ample Restitution of all that the appellant shall have lost by means of such Judgement or Decree, in case upon the Determination of such appeal such Decree or Judgement should be reversed, and Restitution awarded to the appellant.

Execution shall be suspended until final determination of appeal.

And that there shall be a fit person nominated by the

Judges shall nominate a person for prothonotary.

Judges, and Commissionated by the Governour, to be prothonotary or Clerk of the said Supream Court, who shall keep and duly attend his office in some convenient place in the City of Philadelphia, and may be suspended, punished or amoved by the said Court, for Misdemeanors in his office.

How writs shall be granted and bear test.

And be it further Enacted, That all the said Writts shall be granted of Course, and made in the name and stile of the King, his Heirs and Successors, and shall bear Test in the name of the Chief Justice for the time being; but if he be plaintiff or Defendant, in the name of one of the other Justices, and shall be sealed with the Judicial Seal of the said Court, and made returnable to the next Court after the date of such Writt.

Judges shall not sit in inferior courts.

Provided always, That none of the Judges of the said Supream Court shall sit Judicially in any of the said Courts of Common Pleas, Quarter Sessions, or any other inferior Court of this province.

Judges shall deliver the jails of prisoners, for treasons, murders, &c.

And be it further enacted by the Authority afores^{d}, That the said Judges of the s^{d} Supream Court, or any two of them, shall have power, and are hereby authorized and impowered, from time to time, to deliver the Jails of all persons which now are or shall hereafter be committed for Treasons, Murders, and such other Crimes, as by the Laws of this province, now are or hereafter shall be made Capital or Felonies of Death as afores^{d}; And for that end from time to time to Issue forth such necessary Precepts and Process, and Force obedience thereto, as Justices of Assize, Justices of Oyer and Terminer, and of Gaol Delivery, may or can do in the realm of Great Britain.

Felonies, committed in out parts of province, shall be tried in Philadelphia

And also that all manner of offences already made or declared, or hereafter to be made or declared, to be Capital or Felonies of Death, by any Law or Act of Assembly of this province, and done perpetrated or committed, or hereafter to be done, perpetrated or committed, by any person or persons, within the Bounds and Limits of the same province, and without the certain and known Bounds and Limits of any of the Counties now or hereafter Erected in the said province, shall be from henceforth enquired of, heard and determined, before the said Judges, by good and lawful men of the City and County of Philadelphia, in like manner and Form, to all Intents and purposes, as if the said offences and Felonies of Death had been done, perpetrated and committed, within the said City or County of Philadelphia.

Fees in the supreme court.

Provided always, that the Fees due to the Judges and Officers of the said Court, for hearing any of the s^{d} Capital Offences, for any thing done there, shall be double the Fees usually taken in the General Quarter Sessions held in any of the said Counties in this province, any thing therein contained, or in any other Law of this province, to the Contrary notwithstanding.

Provided always, that to prevent the Hardships some persons may be laid under by process Issuing out of the said Supream Court in Civil Causes, and Information on penal Statutes, by Colour of or under pretence of some inseparable power belonging to the Judges of the said Court, or by

some pretence of authority of some former Law of this province;

*Be it further Enacted, by the authority afores*ᵈ, That it shall not be lawful to and for the Judges of the Supream Court of this province, or any of them, to Issue any original Writ or process out of the sᵈ Court in Civil Causes Except upon Indictments found before them, or removed thither from the Courts of General Quarter Sessions of the peace within this province, or for Crimes made tryable in the said Supream Court only by the Laws of this province, & for Forfeitures, Contempts and Defaults, incurred, made, done or committed in the said Supream Court, or against the authority of the same, any Law, Usage or Custom to the Contrary, in anywise notwithstanding.

No original process shall issue out of the supreme court in civil causes.

Provided always, and be it further Enacted, That no Indictment found & now depending before the said Judges in the Supream Court, or removed from any of the Courts of this province into the said Court, or any other Matter legally removed from any other Court, and now depending before the Judges of the said Court shall be discontinued; but that the same may be heard, tryed and determined before the said Judges, as fully as the same could have been heard, tryed and determined before the making of this Act, anything herein contained to the Contrary in anywise notwithstanding.

No indictment now depending shall be discontinued by this act.

*And be it further Enacted by the Authority afores*ᵈ, That a Competent number of persons shall be Commissionated by the Governor, or his Lieutenant for the time being, under the Broad Seal of this province, who shall hold and keep a Court of Record in every County of this province, which shall be stiled and called, the County Court of Common pleas, and shall be holden four times in every year, at the place where the General Quarter Sessions shall be respectively kept, vizᵗ: at Philadelphia, for the County and City of Philadelphia, on the Day called the first Wednesday after the day appointed for the Quarter Sessions to begin on there, in the Months called March, June, September and December; At Newtown, for the County of Bucks, on the Eleventh Day following, (Inclusive); and at Chester, for the County of Chester, on the Day called the last Tuesday in the Months called May, August, November and February, which said Justices, or any three of them, according to the Tenour and Direction of their Com'issions, shall hold pleas of assize, Scire facias, Replevins, Informations and actions upon penal Statutes, and hear and determine all and all manner of pleas, actions, Suits and Causes, Civil, personal, real and mixed, according to the Laws and Constitutions of this province, as fully and amply to all Intents and purposes as the Justices of the Kings Bench, Common pleas, & Exchequer in England, or any of them, may or can do.

A county court shall be held four times a year.

Jurisdictions of the courts.

*And be it further Enacted, by the authority afores*ᵈ, That every of the sᵈ Justices shall and are hereby impowered and authorized to grant, under the Seal of the respective Counties, Replevins, Writts of partition, Writts of view, and all other Writts and process, upon the said pleas and actions,

Justices may grant replevins, &c.

Cognizable in the said respective Courts, as occasion may require.

And issue *subpœnas* for evidence into any county.

And be it further Enacted, That the said Justices of the said respective Courts of Common pleas, shall and are hereby empowered to issue forth subpœnas, under their respective Hands and Seals, into any County or place of this province, for summoning & bringing any person or persons to give Evidence in and upon the Tryal of any Matter or Cause whatsoever, depending before them, or any of them, under such pains and penalties, as, by the Rules of the Common Law, and Course and practice of the Kings Courts at Westminster, are usually appointed.

An *alias* execution may be granted, directed to the sheriff of another county.

And be it further Enacted, That upon any Judgement obtained in any of the said County Courts of Common pleas in this province, and Execution returned by the Sheriff or Coroner of the proper County, where such Judgement was obtained, That the party is not to be found, or hath no Lands or Tenem^{ts}, Goods or Chattels, in that County, and thereupon it is Testified that the party sculks, or lies hid, or hath Lands, Tenements, Goods or Chattels in any other County of this province, it shall and may be lawful to and for the Court that Issued out such execution, to grant, and and they are hereby required to grant an *alias* Execution, with a *Testatum*, directed to the Sheriff or Coroner of the proper County or place, where such person lies hid, or where his Lands or Effects are, Commanding him to execute the same, according to the Tenour of such Writt or Writts, and to make return thereof to the County Court of Common pleas where such Recovery is had or Judgement given.

And if the Sheriff or Coroner, to whom such Writt or Writts shall be directed, shall refuse or neglect to execute or Return the same accordingly, he shall be amerced in the Court where he ought to return it, and be liable to the action of the party grieved: And the said amercements shall be truly and duly set, according to the quality of the offence, and process shall Issue out against the offenders for Levying of such amercements as shall be unpaid, which said amercements shall be Levyed by the proper officer and paid into the provincial Treasury towards support of Government as above directed.

The defendant may have a special court, in case of sudden departure.

And Be it further Enacted by the authority afores^{d}, That if any Defendant or Defendants in any suit or action, by reason of his or their suddain Departure out of this province, shall require a more speedy Determination in such action or suit, than can be obtained by the common or ordinary Rules of proceeding in any of the said County Courts of Common pleas in this province, the said Justices, upon application made, shall grant to such Defendant or Defendants special Courts, and shall proceed to hear and determine the premisses, according to the Course and practice of the said County Courts of Common pleas, for the usual Fees therein taken:

Bail shall be given to the plaintiff's action.

Provided always, That before such Justices shall grant such special Courts, or proceed to hear and determine the premisses, the Defendant shall give Bail to the plaintiff's

action by Recognizance, according to the Course and practice of the said County Court of Common pleas.

Process on writs of enquiry, regulated.

And to prevent the excessive Charges that have sometimes arisen upon executing Writts of Inquiry of Damages, *Be it Enacted*, That the Justices who give any Interlocutory Judgement shall, at the motion of the plaintiff, or his Attorney, in the action where such Judgement is given, make an order, in the nature of a Writt of Inquiry, to Charge the Jury attending at the same or next Court, after such Judgement is given, to Enquire of the Damages and Costs sustained by the plaintiff in such action; which Enquiry shall be made, and Evidence given, in Open Court; and after the Inquest have considered thereof, they shall forthwith return their Inquisition, under their Hands and Seals; whereupon the Court may proceed to judgement as upon Inquisitions of that kind returned by the Sheriff.

Attornies may be admitted.

*And Be it further Enacted by the Authority afores*ᵈ, That there may be a competent Number of persons of an honest Disposition, and learned in the Law, admitted by the justices of the said respective Courts, to practice as Attornies there; who shall behave themselves justly and ffaithfully in their practice.

Oath of admission.

And before they are so admitted shall take the following Qualification Viz^{t}: Thou shalt behave thyself in the office of Attorney within the Court, according to the best of thy learning and ability, and with all good Fidelity as well to the Court, as to the Client; thou shalt use no Falshood, nor Delay any Persons Cause for Lucre or Malice.

How punished for misbehavior.

And if they misbehave themselves therein, they shall suffer such penalties and Suspensions, as Attorneys at Law in Great Britain are liable to in such Cases; By which Attorneys Actions may be Entered, and Writts, process Declarations, and other pleadings and Records, in all such actions and Suits, as they shall respectively be concerned to prosecute or defend from time to time, may be drawn, and with their names and proper Hands signed: Which said Attorneys so admitted may practice in all the Courts of this province, without any further or other License or admittance:

Must file their warrant.

And That the attorney for the Plaintiff in every action shall file his Warrant of Attorney in the prothonotary's office the same Court he Declares: And the Attorney for the Defendant shall file his Warrant of Attorney the same Court he appears: And if they neglect so to do, they shall have no Fee allowed them in the Bill of Costs, nor be suffered to speak in the Cause, untill they file their Warrants of Attorney respectively. Signed by order of y^{e} House Da^{d} Lloyd Speaker

Passed Augt. 26, 1727
Recorded Law book A vol 2. p. 352
Repealed in Council — 1731.

AN ACT

For Reviving and Continuing the Proceedings of the Courts of Judicature within this Province.

Preamble.

Whereas an Act of General Assembly of this Province, made in the Year One Thousand Seven Hundred and Twenty six, and in the Thirteenth Year of the Reign of his late Majesty King George the First, of Blessed Memory, Entituled An Act for Establishing Courts of Judicature within this Province, which Act, (supposed to supersede or repeal one other Act of Assembly of this Province, Entituled An Act for Establishing Courts of Judicature within this Province, made in the Year One Thousand Seven Hundred and Twenty two) is since Repealed by the King in Council.

And whereas without some Provision be made for the Confirmation of such Judgments as have been rendered since the Repeal of the said Act, and for the Continuance of such Process as are depending in the several Courts within this Province, many Suitors may be disapointed, and such Judgments may be Reverst, and the Process upon Indictments or Informations, depending in the several Courts of Pennsilvania, may be discontinued; It is therefore humbly pray'd

Law of 1722 re-enacted.

that it may be Enacted, *And be it Enacted*, by the Honourable Patrick Gordon Esq. Lieutenant Governor of the Province of Pennsilvania, &c. by and with the Advice and Consent of the Representatives of the Freemen of the said Province, in General Assembly met, and by the Authority of the same, That no Indictment, Plea, Suit or Actions in which Judgment hath been rendered since the Repeal of the said last recited Act of Assembly, nor any Process thereupon, shall be abated Quash'd Revers'd or Judged Null or Void, for or by reason of the Repeal of the said Act of Assembly made in the Year One Thousand Seven Hundred and Twenty six; But that the said Judgments, Suits and Process, shall be and are hereby declared to be good and Valid in Law, as if the said Act had never been Repealed: And that no Indictment, Presentment, Action, Suit, Plea, Process, or other Matter now depending in any Court of Record within this Province, shall be discontinued, abated, Quash'd, Null'd or Reversed, for or by reason of the Repeal of the said last mentioned Act of Assembly only: But that the Judges and Justices of the Respective Courts within this Province shall, by Virtue of the said Act of Assembly made in the Year One Thousand Seven Hundred and Twenty Two, now again come in Force, by Repeal of the said Act of the Thirteenth of King George the First, proceed to hear, try, and determine, all Causes Civil and Criminal, now depending; And the Proceedings of the several Courts of Judicature within this Province, Be and are hereby Confirmed; So that no Advantage shall be taken of or for any want of Authority, Defect, Jurisdiction, or Error on such Proceedings, occasioned by such Repeal only: but that all such Defects and Errors, be and are hereby aided, according to the true intent and meaning of the said Act, as if the same had not

been Repealed, any Law, Statute or Usage to the contrary notwithstanding.

Signed by order of the House

A. HAMILTON *Speaker*

Passed Nov. 27, 1731.

Recorded law book A. vol III p. 1

A SUPPLEMENT

To the Act intituled, "An Act for establishing Courts of Judicature in this province."

Preamble.

For the further Advancement of Justice, and a more certain Administration thereof, *Be it enacted* by the Honourable William Denny Esquire; Lieutenant Governor under the Honorable Thomas Penn and Richard Penn Esquires, true and absolute proprietaries of the province of Pennsylvania, and Counties of New Castle, Kent and Sussex, upon Delaware, by and with the Advice and Consent of the Representatives of the Freemen of the said province in General Assembly met, and by the Authority of the same, That as soon as conveniently may be, after the publication of this Act, there shall be in every County within this province, five persons of the best Discretion, Capacity, Judgment and Integrity that may be found, and no more, duly appointed and Commissionated by the Governor, or Commander in Chief, for the Time being, under the Broad seal of this Government, who, or any three of them, shall, and they are hereby authorized and required to hold and keep, within their respective Counties, the Court of Record, stiled and called, The County Court of Common pleas, at the same Times of the Year, and at the same places as the said Courts respectively have been heretofore used and accustomed to be held by the Judges of the same; which said Judges, or any three of them, shall hold pleas of Assizes, Scire Facias, Replevins, and hear and determine all manner of Actions, Suits, and Causes, civil, personal, real and mixed, according to the Laws and Constitutions of this province; And shall have, hold and exercise all and every other power, Authority, Jurisdiction and privilege, given and granted to the Judges, of the said County Court of Common pleas, in and by the Act of Assembly, aforesaid, intituled, "An Act for establishing Courts of Judicature in this province," or any other Law of this Government whatsoever; and that each and every person so appointed and commissionated, and each and every of the Judges of the Court, called and stiled, The Supream Court of Pennsylvania, shall have, hold, enjoy and exercise, their several and respective Commissions and Offices aforesaid, *quam diu se bene gesserint*, And that their respective Commissions shall be granted to them accordingly; *Provided always*, nevertheless, that it shall and may be lawful for the Governor, or Commander in Chief for

There shall be five judges of the court of common pleas commissioned for each county.

Judges appointed under this act, and the judges of the supreme court, shall continue in commis-

sion during good behavior.

the Time being, to remove them the said Judges of the Supream Court, and County Court of Common Pleas aforesaid, or any of them, from their said respective Offices and Commissions, upon the Address of the Representatives of the people in Assembly met.

Judges of the court of common pleas shall hold the orphans' court.

And be it further enacted by the Authority aforesaid, That the Judges of the Court of Common Pleas, or any three of them, in each respective County of this province, to be appointed and commissionated by virtue of this Act, and no other persons whatsoever, after the publication hereof shall, and they are hereby Authorized, impowered and required, to hold and keep the Court of Record, in each of the said Counties, called and stiled, The Orphan's Court, instituted and established in and by an Act, entituled "An Act for establishing Orphan's Courts," as fully and effectually to all Intents and purposes as the Justices of the peace of each County heretofore have, ought, might, or could do, and that the said Judges of the Common pleas shall have, use, exercise and enjoy all and every the powers, Authorities, Jurisdictions and privileges which are given and granted to the Justices of the Orphan's Court, in and by the said Act of Assembly, or any other Law of this province whatsoever, any Thing in the said Act, or any other Act of Assembly of this province to the contrary notwithstanding.

Salaries of the judges of the supreme court.

And be it further enacted by the Authority aforesaid, That the Chief Justice of the said Supream Court shall have and receive for discharging the Duties of his Office the Sum of Two hundred pounds; and each of the other Judges of the said Court the Sum of One Hundred pounds yearly, and every Year during their Continuance in their respective Office, to be paid out of such Monies as shall from Time to Time be raised for defraying the Charges and Exigencies of Government; and that each of the said Judges of the County Court of Common pleas, shall have and receive for every Day he shall sit in the said Court, the Sum of Twenty Shillings, to be paid by an Order from the Commissioners of each respective County, for which the said Judges shall be commissionated, drawn on the Treasurer thereof, out of such Monies as shall be raised from Time to Time for the payment and Discharge of the County Debts, in pursuance of an Act, intituled, "An Act for raising of County Rates and Levies."

Of the judges of the court of common pleas.

Justices of the sessions disabled from holding a judge's commission.

And be it further enacted And provided by the Authority aforesaid, That no Justice of the County Court of Quarter Sessions, shall have, hold or enjoy, the Office or Commission of a Judge of the County Court of Common pleas aforesaid; but every such Justice is hereby disabled from holding, enjoying or executing the said Office and Commssion, for and during, and at the same Time he shall be Justice of the Quarter Sessions aforesaid.

Causes which may be removed into the supreme court.

And be it further enacted by the Authority aforesaid, That if any Action, Bill, plaint, Suit or Cause, not concerning Frechold or Inheritance, or Title of Land, Lease or Rent, which shall be brought, commenced or depending in any of the said Courts of Common pleas, wherein the Debt, Dam-

ages, or Things demanded or recovered, shall not amount to, or exceed the sum of Twenty pounds, lawful Money of Pennsylvania, shall be removed into the said Supream Court by the plaintif, in case a Verdict shall be given in his Favour, he shall not recover any Costs of Suit; but if the Verdict shall be against him, he shall pay double-Costs of Suit to the Defendant: and in case any such Suit, Bill, plaint, or Cause, shall be removed by the Defendant, he shall pay double Costs to the Plaintif.

Time extended for holding the quarter sessions courts in Bucks and Chester counties.

And Whereas the Times limited for holding the Courts of Quarter Sessions in the Counties of Bucks and Chester, are too short for the Transaction of the Business there often happening, *Be it therefore enacted by the Authority aforesaid*, That it shall and may be lawfull to and for the Justices of the said Courts of Bucks and Chester respectively, to hold the same for and during the space of three Days, and to adjourn for that purpose over to the Day next following the Days heretofore appointed by Law for holding the same, any Thing in the Law herein before mentioned to the Contrary notwithstanding.

Signed by Order of the House

THO^{s} LEECH *Speak*^{r}

Passed Sept 29, 1759.

Recorded Law Book A, Vol. IV, p. 144.

Repealed ———

AN ACT

To amend the Act, Intituled An Act for establishing Courts of Judicature within this Province.

Whereas it has been found inconvenient for the Judges of the Supreme Court of this Province to ride the Circuit, and to try the Issues joined in the Said Court, in causes removed from the respective Counties of Chester and Bucks, on the days and times appointed for that purpose, in and by the Act of General Assembly of this Province, passed in the Eighth Year of His Majesty Georgs the First, intituled "An Act for Establishing Courts of Judicature within this Province," whereby a practice has been introduced of trying all Issues in Fact, joined in Causes which have been removed from the several Counties thereof, into the said Court of the City of Philadelphia, which has often obliged the Parties, Jurymen and Witnesses, to attend from the most remote Parts of the Province at the said City, to their very great and unnecessary Expence and Aggrievance: For Remedy whereof, We, the Representatives of the Freemen of the Province of Pennsilvania, do pray that it may be enacted,

And be it Enacted, by the Honourable John Penn Esq; Lieutenant Governour under the Honourable Thomas Penn, and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, and Counties of New Castle,

Kent and Sussex, upon Delaware, by and with the Advice and Consent of the Representatives of the Freemen of the said Province, in General Assembly met, and by the authority of the same, That so much of the said recited Act of General Assembly, as relates to the Governour's appointing and commissionating three Supream Judges only, and to the Nomination and Appointment of the Days and Times for riding to and holding the Circuit and Nisi Prius Courts in the said Counties of Chester and Bucks respectively, shall be, and is hereby declared to be repealed, null and void; and that there shall be four Persons of Known Integrity and Ability Commissionated by the Governor of this Province for the Time being, by several distinct Patents or Commissions, under the Great Seal of this Province, to be Judges of the Supream Court, one of whom shall be distinguished in his Commission by the Name of the Chief Justice; and every of the said Judges shall have all the Powers, Rights, Authorities, Jurisdictions and privileges, as are given to the Supream Judges by the above-recited Act of Assembly; and that the said Judges of the Supream Court of this Province shall, and they are hereby enjoined, if Occasion require, to go the Circuit twice in every Year, into the several Counties within this Province, on such Days and Times as they shall nominate and appoint; when and where they, or any one of them, shall try all such Issues in Fact, as shall be depending in the said Supream Court, and removed out of any of the Counties; and generally do, execute and perform, all and every such Acts, Matters and Things, and exercise, use and put in Practice all such Powers, Authorities, Jurisdictions and Privileges, as are enjoined and required of them, or given and granted unto them, in and by the said recited Act of General Assembly.

Repeal of parts of a former law.

Four judges of the supreme court to be commissioned.

Required to ride the circuit twice in every year, if occasion require.

And be it further Enacted by the Authority aforesaid, That the Charges and Expences of the Judges and Clerk of the said Supream Court, with their Servants, in their said Circuit, shall be paid in Manner following; that is to say, all such Expenses as shall happen in their Circuit through any of the Counties, where they shall not hold their said Court, shall be paid by the Province; and that all such expenses which shall accrue from the time of their coming into, and during their Continuance in the County, where they shall hold their said Court, by the Treasurer of the same County, out of the County stock, and that they the said Judges and Clerk, with their Servants, shall pass and repass, and shall be conveyed by the Ferrymen over all the several Ferries within this Province, without paying any Ferriage, Fee or Reward for the same.

How the expenses of the judges shall be paid.

Provided always nevertheless, That if, after the Publication of this Act, any Plaintiff or Defendant in any Cause, depending in any County Court of Common Pleas, shall remove any such Cause into the Supream Court aforesaid, the Debt or Damages whereof, which shall be found due by Default, Confession, Verdict, or Report of Referrees, shall not amount to the sum of Fifty Pounds, lawful Money of this Province, every such Person so removing such cause, if a

No cause to be removed of less value than £50.

Plaintiff, shall not recover any Costs of Suit; or if a Defendant, he shall Pay double Costs, to be awarded by the said Supream Court.

Provided also, And be it further Enacted by the Authority aforesaid, That nothing herein contained shall be deemed, construed or understood, to prevent the removing any Action of Debt for Rent, Replevin, Ejectment, Tresspass, or any other Plaint or Suit wherein the Title to Land or any other Real Estate, may come in Question.

No appeal shall be allowed on a general verdict, from the supreme court to His Majesty in council.

And be it Enacted by the Authority aforesaid, That it shall not be lawful for any Person or Persons, their Heirs, Executors or Administrators, to appeal from the final Sentence or Judgment of the said Supream Court, awarded in any Action or Suit wherein a general Verdict shall be given, or in any other case, but where there shall be a Demurrer to Evidence, or Bill of Exceptions, or where a Writ of Error may legally be brought, and that upon Prayer or Petition made or Exhibited to the said Court for such Appeal, after such general Verdict or final Sentence or Judgment thereon, the said Supream Court shall enter a disallowance of such Appeal, and proceed in the same Manner as if none such had been removed or petitioned for, any Thing in the said recited Act of General Assembly to the contrary thereof notwithstanding.

Penalty on jurymen for non-attendance.

And in order to compel the due attendance of Jurymen on the said Circuit and Nisi Prius Courts, and all other the Courts within this Province, *Be it Enacted by the Authority aforesaid*, That if any Person shall, after the Publication of this Act, be duly summoned to attend any Court of Judicature within this Province, to serve on a Jury, or any Inquest required by Law, and shall neglect or refuse to give his attendance on the day, and during the time his service is necessary, every such person, so offending, shall be fined for every such Offence, in the Supream Court, and Court of Oyer and Terminer, by the Judges or Justices thereof, any sum not exceeding Three Pounds; and for every such Offence in the County Court of Common Pleas, or Court of Quarter Sessions of the Peace for any County or City in this Province, by the Judges or Justices thereof, any sum not exceeding Forty Shillings, unless such Delinquent shall at the same or next succeeding Court, render to the Judges or Justices thereof, a reasonable Excuse for such Neglect or Refusal, to be allowed by such of them as shall be present, which said Justices are hereby impowered and required, on Failure of such Delinquent to render such reasonable Excuse, to issue a writ to the Sheriff of the County to Levy the said Fines on the Goods and Chattels of every such Delinquent, to be paid to the Overseers of the Poor of the City, Borough or Township, where he shall reside, to the use of the Poor thereof.

Recorded in Law Book A. Vol. 5. page 213.

Passed May 20th 1767.

B.

HISTORICAL NOTES

ON THE

EARLY GOVERNMENT

AND

LEGISLATIVE COUNCILS AND ASSEMBLIES

OF

PENNSYLVANIA,

BY

BENJAMIN M. NEAD.

PART I.

From the first European Settlement on the Delaware to the acquisition of the country by Penn, 1623–1681.

PART II.

From the acquisition of the country by Penn to the close of the century, 1681–1700.

"Nescire quid antea quam natus sis
Acciderit, id est semper esse puerum."—*Cicero.*

NOTE.

The editor of the following pages takes this opportunity of tendering his acknowledgments to STOUGHTON GEORGE, of Harrisburg, for valuable assistance rendered in collating the matter of the second part of the Historical Notes.

To the Historical Society of Pennsylvania, the editor's thanks are also due, for their many courtesies extended to him in the prosecution of his work.

Seal of New Netherlands.
1655–1664.

PART I.

From the first European Settlement on the Delaware to the Acquisition of the Country by Penn, 1623—1681.

CHAPTER I.

Introductory.

The field presented to the writer from which he is to glean widely scattered facts, and bind them into a history, of the legal and judicial customs in early Pennsylvania colonies and province, is by no means a promising one, prolific of the germs of confusion, as it is at the present day.

Important of subject and rare as the records of those days were, we have yet to deplore the loss, and sometimes willful destruction, of most valuable ones by the carelessness or crime of the earlier settlers, as well as by the accidents and vandalism of later days. But enough remain to give something of an insight into the subject, and where details fail us, there is a satisfaction in the contemplation, in general views, of those early struggles for life, in the New World, of civilized man's conception of law and order.

There are items of evidence scattered all through the fragmentary history of the varied fortunes of the early European adventurers upon the shores of the Delaware—around the borders and within the confines of present Pennsylvania—which tend to prove that each company of new comers, whose aim was permanent colonization, and not a mere temporary enterprise in trading, came armed with full authority to promulgate laws for the protection of the rights of persons and of property, and to establish tribunals for the administration of justice. These laws and judicial forms, if such they may be called, were part, in every case, the common law of the mother country, and peremptory, and part advice to be adopted, modified, or rejected, as the exigencies of actual circumstances might demand; such circumstances as might arise from the daily intercourse, sometimes hostile, sometimes friendly, of the representatives of totally different nations with each other, and with the savage inhabitants of the soil,

and which naturally tended to a harmonizing of analogous laws, the toning down of conflicting ones, and the mutual recognition of salutary customs. So precarious was the existence of those earlier germs of colonies, that the representatives of no particular nation remained unmolested long enough in the enjoyment of its assumed rights to impress its individual character *alone* upon any establishment of law or administration of justice.

Almost uniformly was this the case from the days of the Patroonship of Godyn, Blomaert and the hardy De Vries, the fate of whose little colony in the "Valley of the Swans" was so unhappy, down to the period of the reduction of the Dutch colonies on the Delaware, and the establishment of English authority in 1664. It is true, that after the conquest of the Swedes upon the Delaware by the Dutch, in the year 1655, the affairs of the last mentioned people assumed a more settled condition, and the promulgation of law and judicial customs began to take more definite shape, but the records are not satisfactory enough to justify any attempt at analyzing this conglomerate condition of law and justice during the period referred to with the view of accurately marking out the particular code and practice combined of any one nation predominating therein.

The establisment of English law in the colonies on the Delaware was by no means the work of a day. Compromises, some of them the most radical, with the customs of the country in vogue, were found to be absolutely indispensable, and a full decade was necessary to nurture the seeds of English jurisprudence, implanted in this section of the New World's soil, into even a stunted growth. And whether the courts of justice with their "Book of Lawes,"—attributed by the fanciful to the versatile pen of the Earl of Clarendon,—which Governor Androsse was enabled to hand over to Penn's lieutenant, William Markham, in 1681, were distinctively English, is susceptible at least of doubt.

Under Penn, with his first laws, "agreed upon in England," the foundations of the Government of Pennsylvania were rapidly laid upon English principles, and law after law, as it appeared upon his statute books, failed not to bear the marks of its English parentage.

Adverting to the various conflicting elements of society at work during the early settlement of the Pennsylvania colonies, as one of the most important of these, mention must be made of the Indians.

To dignify any assemblage of savages with the appellation of a court, or to denominate as law and the execution of justice their usages for the protection of their persons and property, and their rude mode of adjusting differences between themselves, and punishing crime, is scarcely warrantable; yet a glance, in passing, at their own habits and customs, and their agreements with the white settlers in this respect, will doubtless prove of some interest.

The Lenni Lenapees or Delaware Indians, who inhabited the shores of the Delaware, were like the great mass of the aborigines of the New

World—excepting the more civilized tribes who dwelt in Mexico or Peru, totally ignorant of the laws, customs, and judicial forms which obtained among enlightened beings, but unflinchingly they administered their own peculiar justice, the foundation of which lay principally in the stern mandates of the *lex talionis*.

Atonement for evil doing, whether a civil wrong or a crime, was made by the performance of some "pecuniary obligation." Says Penn, in a letter to the "Free Society of Traders," shortly after his arrival in Pennsylvania: "In case of any wrong or evil fact, be it murder itself, they (the savages) atone by feasts and presents of their *wampum*, which is proportioned to the quality of the offense or person injured, or of the sex they are of; for in case they kill a woman, they pay double, and the reason they render is, 'that she breedeth children, which man cannot do."

Minor offenses were frequently condoned or passed unnoticed, but the greater crimes, such as murder, rarely. When a murder was committed, the revengeful feelings of the friends of the victim were allowed full sway, and the next of kin was the chosen one to execute the law of retaliation. His right it was to slay the murderer, wherever he met him, within the recognized limit of time—twenty-four hours after the act was committed. If the murderer escaped the avenger he could afterwards make atonement by the payment of *wampum*.

Their general government consisted of a chief and a council which was made up of the oldest and wisest of the tribe. The measure of wisdom was personal bravery in war, but the right to the chieftainship partook somewhat of an hereditary character. The line of succession lying not on the father's but the mother's side.

For the decision of all matters of importance the council was convoked. When in solemn conclave the chief sat in the midst, surrounded by the council. Away a little distance sat the young men of the tribe, watching the proceedings with silent attention.

Though bound by no written or well founded laws, the Indians very rarely disregard the solemn action of the council upon any subject, and faithfully obeyed its dictates and commands. Although ignorant of the nature of vows and oaths, if a chief signed an obligation in presence of the tribe it was held inviolate. This was universally true in earlier times, but in their later and more general intercourse with the white settlers the savages learned by example to disregard their promises and prove faithless to their contracts.

Among some of the early settlers, prior to the jurisdiction of Penn, some regard for "justice" toward the natives of the soil seems to have been entertained. Queen Christina of Sweden, in her grant and privileges for the establishment of a new colony in "New Sweden," in 1640, instructs the colonists in specific terms as to the manner in which they are to minister to the spiritual wants of the "pagan inhabitants." And in her instructions to Governor Printz, in 1642, she recognizes the rights of the

"savage inhabitants," making reference to a contract with them as "legitimate proprietaries" for extended possessions of land. Nevertheless, Penn seems to have had but little faith in the justice which the savages had received at the hands of the whites prior to his coming, for he unqualifiedly asserts; "the worst is they are the worse for the Christians."

It was not until the authority of Penn was fairly established in his province and territories in the new world, that a direct agreement with the Indians for the protection of their rights was made. Writing to the "Free Society of Traders," in 1683, Penn says: "We have agreed that in all differences between (the colonists and Indians,) *six* of each side shall end the matter. Do not abuse them, but let them have justice, and you win them."

Penn's policy, which culminated in the famous treaty which was "never sworn to and never broken," protected, as well as could be, the savages in the enjoyment of their rights, and secured to the people of Pennsylvania an unbroken peace with them for a long period of time.

To the incidents connected with the earlier settlements upon the shores of the Delaware, the attention of the student of Pennsylvania history, of whatever character, turns with more than a passing interest. Here were implanted the earliest germs of the future civilization and power of our present Commonwealth, and here were moulded from strongly antagonistic elements the present nature and condition of our people, their customs and rules of intercourse, and to some extent their laws.

The first European attempt at settlement upon the shores of the Delaware were made in the year 1623–1624, under the auspices of a powerful organization of Holland traders, called the "Dutch West India Company." This famous company which had for its object the promotion of colonization and the extension of commerce was founded in the year 1621. The country along the Delaware being claimed by Holland as a portion of the "New Netherlands," so styled, was under the jurisdiction of the Amsterdam branch of the Company. The government of the Company was delegated to a number of branches, or chambers, of this character, all of which, however, were subject to the supervision of a superior body, denominated the Assembly of XIX, composed of delegates from the various inferior branches.

The powers of the West India Company, in certain particulars, were coextensive with those of the Government creating them. From one of the valuable works of a well known New York historian,[1] we quote the following, in regard to the chartered privileges of this Company: "To protect their commerce and dependencies, they were impowered to erect forts and fortifications; to administer justice and preserve order; maintain police and exercise the government, generally, of their trans-marine affairs; declare war and make peace, with the consent of the States-General, and

[1] Doctor O'Callaghan, "History of the New Netherlands," Vol. 1, p. 90, to which writer we are indebted for much valuable information; referring to him frequently, in these pages, as authority.

with their approbation, appoint a Governor, or Director-General, and all other officers, civil, military, judicial, and executive, who were bound to swear allegiance to their High Mightinesses (the States-General) as well as to the Company. The Director-General and his Council were invested with all powers judicial, legislative, and executive, subject, some supposed, to an appeal to Holland; but the will of the Company, expressed in their instructions, or declared in their marine or military ordinances, was to be the law in New Netherlands, excepting in cases not especially provided for, when the Roman law, the imperial statutes of Charles V, the edicts, resolutions, and customs of Fatherland were to be received as the paramount rule of action."

By virtue of their charter, the Dutch West India Company, in 1622 and 1623, took general possession of the country of New Netherlands, and in the following year, 1624, Cornelis Jacobsz Mey and Adriaen Jorissz Tienpoint, under whose direction the enterprise was conducted, built "Fort Nassau," on the "South River," by which name the Delaware was called by the Dutch. This fort, built near the present Gloucester Point, New Jersey, was the first settlement within the vicinage of Pennsylvania. At this time, however, it was simply a post for trading with the Indians, and did not reach the dignity of a regular settlement. Its existence was most precarious, at best, and short of duration. In the course or a few years, the fort fell into disuse, and was, most likely, destroyed by the Indians. When again occupied, in later years, it had to be re-built.

In the year 1629, the Assembly of XIX, of the West India Company, for the purpose of forwarding their work of establishing colonies in the new world, granted a charter of "Freedoms and Exemptions to all such as shall plant any colonies in New Netherlands."[1] All who were willing to avail themselves of the privileges set forth in this charter, and, as Patroons, undertake to plant a colony, provided their number comprised not less than "fifty souls," all over fifteen years of age were authorized to take up land at such points as they saw fit, and hold the same in, what was, in reality, a feudal tenure. In extending the limits of their land along navigable rivers, they were forbidden from covering more than sixteen miles on one side, or eight on both sides of a river. Possessing their lands within proper limits, full enjoyment of all the products thereof was guaranteed to the Patroons. Theirs was also the right to hold "chief command," and to exercise "lower jurisdiction;" but from all judgments given by the courts of the Patroons for sums of fifty guilders[2] and upwards, an appeal lay to the Director-General and Council in New Netherlands.

Among the first to avail themselves of the privileges granted by this charter, were Samuel Godyn and Samuel Bloemmaert, who, through agents, had the year before, and prior, even, to the ratification of the

[1] Hazard's Ann. of Pa., p. 21, and O'Call., Vol. 1, pp. 112, 114.

[2] $20.

above mentioned charter by the States-General of Holland, purchased from the savages, a tract of land around Cape Hinlopen, on the south side of the Delaware bay. After the confirmation of this purchase, by the authorities of New Netherlands,[1] an agreement was entered into between Godyn, Bloemmaert, David Pietersen de Vries, and others, for the establishment of a colony on this purchase. The little settlement which was founded on the Delaware, in pursuance of this arrangement, was styled "Zwanendal," or "Valley of the Swans." Its history is as romantic as brief. De Vries, who had been present at its founding, departed for home shortly after, leaving the direction of affairs in the hands of Giles Hosset, and, upon his return the following year, 1632, he found the spot silent and deserted; there was no response to his signal guns, and, upon landing, he found every vestige of his settlement gone, except the bones of his murdered companions and the ashes of their home.

The arms of Holland, painted on a piece of tin, had been set up by the colonists. The glitter of this rude escutcheon had attracted the attention of an Indian chief, who, in his ignorance, took it to make a tobacco pipe or box. This act the foolish settlers construed into an insult to their country, and evinced their displeasure with the Indians on account of it, whereupon certain of the Indians, in their zeal to secure the favor of the whites, captured and murdered the offending chief, and brought his head to Hosset. The result of this rash act was the total destruction of the settlement. The friends of the murdered Indian, at the first opportunity, gained possession of the fort and its guard, whom they dispatched, while the settlers were absent at work. Upon the return of the whites, in the evening, they were all massacred and the building burnt.

After learning the fate of his colony, De Vries departed to take part, in the future, in other enterprises.

But little of interest to our inquiry is connected with the attempts of the Dutch, during the next five years, to establish themselves on the Delaware. The period of Wouter Van Twiller's rule as Director-General of the New Netherlands (1633–1638) accomplished but little toward rendering permanent the authority of the Dutch in that region.

The importance of such a consummation was, however, fully appreciated, for the trade from the Delaware was yearly growing more valuable. Fort Nassau was re-built, additional territory was purchased, and several other small forts were erected, but in the year 1635, the English, from Connecticut, began to encroach upon the territory, causing much trouble, and in the year 1638, the arrival of a colony of Swedes, under Peter Minuet, and their determined demeanor, awoke the liveliest apprehensions in the breast of William Keift, the new Director-General of New Netherlands, (1638–1646), and marked a new era in the history of the colonies on the Delaware.

The subsequent important events in the history of the colonies on the

[1] Penna. Archives, 2d Ser., Vol V., p. 25.

Delaware, and the Province of Pennsylvania, are, chronologically, as follows:

I. Under the Swedes, from 1638, when the first settlement, which can properly be designated as a permanent one, was made by the Swedes, upon soil afterwards comprised within the limits of the Pennsylvania Colonies, to 1655, when the Swedes were overthrown by the Dutch, under Peter Stuyvesan'.

II. Under the Dutch, from 1655, when Dutch authority was established, to 1664, when the colonies on the Delaware were conquered by the English.

III. Under the English, from 1664, when English authority was established, to 1681, the period of the grant of the Province to Penn, and the arrival of his Lieutenant Governor, Markham.

IV. The Province and Territories under Penn, 1681–1700.

CHAPTER II.

THE SWEDISH COLONY ON THE DELAWARE, 1638—1655.

As early as the year 1624, the attention of the Swedish government was directed to the importance of a colony in the new world, bearing allegiance to the Swedish crown, and initiatory steps were taken toward the establishment of a colony of this character. The prime mover in this enterprise was William Usselincx, a merchant of Brabant, Antwerp, who came to Gustavus Adolphus, King of Sweden, highly recommended as a person well calculated to forward an enterprise of this character. He had been the projector of the Dutch West India Company, and one of the most able advisers of its administration. The plan of the ambitious Usselincx, was to establish a Swedish West India Company, which, in the importance of its enterprises and the scope of its authority, was soon to rival the famous Holland company. So thoroughly imbued with the ideas of Usselincx did Gustavus become, that on the fourteenth day of June, 1626, he granted a charter[1] for a Swedish West India Company, whose jurisdiction of trade and commerce was to extend to Africa, America, and Australia. The government of the Company was vested in a board of directors, representatives from the several chambers, all of whom were subject to the jurisdiction of a general diet of all the chambers.

To the Company was delegated the power to make treaties with foreign chiefs, or people, in their own name; to build castles and fortresses, occupy desolate places, and make them habitable; operate and procure what they could for the convenience of the Company; to avenge insults or wrongs; to constitute a council, which, with its officers, was to be charged with the administration of justice; the preservation of good laws, the appointment of soldiers, governors, directors, and judges, and with the settlement of differences between individuals, and between directors and the several chambers of the Company.

King Gustavus Adolphus, however, was not destined to behold the fruition of his hopes in this grand enterprise, which he was wont to style "the jewel of his kingdom." Before the arrangements of the Company were completed, on the 16th of November, 1632, the good king, fighting for his faith, died upon the fatal field of Lützen. At his death, active operations in the interest of the project ceased for the time being, at least, but the idea was by no means abandoned. Recollections of the king's interest in it were cherished in the breast of Oxel Oxenstierna, his prime minister, and after his death, royal chancellor of Sweden, under the infant Queen

[1] See extract "Argonautica Gustaveana," in Hazard's Ann., pp. 16–20.

Christina, who succeeded to the throne of Sweden at her father's death, being at that time but six years of age.

A recommendation of the scheme of the West India Company had been drawn up by Gustavus a month before his death, but had never received his signature.[1]

On the 10th of April, 1633, this proclamation was published by Oxenstierna, together with an apology for the delay in organizing the Company. On the 12th of December, 1634, the charter of the Swedish West India Company was confirmed by the Deputies at Frankfort, and was printed at Hamburg in 1635.[2]

The first Swedish settlers, under this charter, arrived upon the shores of the Delaware at the close of March or beginning of April, 1638, in two vessels, named the "Key of Kalmar" and the "Bird Griffen," the former an armed vessel, and the latter a provision boat. The expedition was under the command of Peter Minuet, formerly connected with the Dutch West India Company, and late a Director General of New Netherlands.[3]

The present Directorship of New Netherlands was vested in William Kieft, who had been commisioned as Wouter Von Twiller's successor, on the 28th of March, 1638.[4]

Arrived at the Delaware river, Minuet, misleading the Dutch settlers who visited his vessel, under the pretense of his stopping only for supplies, immediately, upon landing, began the work of establishing a settlement, and when remonstrated with by the Dutch, intimated that his Queen had as good a right to the soil as they.[5]

Minuet first landed at a point on the western side of the river, on territory now within the present State of Delaware, at no great distance from the ancient Zwanandal, the spot where the unfortunate colony of De Vries met its fate. He next visited Minquas Creek, which he called Christina Kihl, in honor of his young Queen, and Christina creek is the name it bears to-day. On this stream, a short distance from its mouth, at a place called by the Indians Hopokohacking, near the present city of Wilmington, Delaware, he built Fort Christina.[6]

When advised of Minuet's movements, Director General Kieft entered a protest against them, which protest Minuet, understanding the uncertain condition of affairs in the New Netherlands, feared but little, and as a consequence heeded less. A second protest was treated in like manner. It therefore became evident to Director General Keift that if Minuet's operations on the Delaware were to be checked, it would have to be done by

[1] Haz. Ann., p. 34.

[2] Hazard's Ann., p. 39.

[3] As a sign that Queen Christina had taken possession of the country, Minuet set up posts on which he had inscribed the letters C. R. S., surmounted by a rude representation of a crown.

[4] Hazard's Ann., p. 41.

[5] O'Call, Vol. I, p. 21. Hazard's Ann., p. 43.

[6] Smith's Hist. Del. Co., p. 21. Acrelius, p. 24.

force, and not through fear. More stringent measures were necessary, but Keift not feeling justified in making an hostile attack upon the Swedish settlement, protected, as it was, by a flag, so much respected as that of the home government, referred the whole matter to the Chamber at Amsterdam for further orders.[1]

Meanwhile the Swedes establishing themselves upon as secure a footing as possible, laid the foundations of the first permanent European settlement on the shores of the Delaware. A settlement over which they continued to hold the authority for a period of seventeen years, notwithstanding the efforts of Dutch and English neighbors to gain the ascendancy. The several administrations of the Swedish Colonial Government on the Delaware, during this period, and up to the time when the settlement finally succumbed to the Dutch government at New Amsterdam, are as follows:

SWEDISH DEPUTY GOVERNORS.

Peter Minuet,	1638—1641
Peter Hollandare,	1641—1643
John Printz,	1643—1653
John Pappegoya,	1653—1654
John Claude Rysinge,	1654—1655

From the array of disconnected facts, which are the only record now in existence of the doings of the earlier settlers on the Delaware, it is impossible definitely to determine the mode of government, and, in some instances, the manner of the men who had the delegated control of affairs in the Swedish Colony. While it is claimed by some of the best informed writers on the subject, that Peter Minuet was the first Deputy Governor of the colony and acted in that capacity, there is no record of any of his official acts. We have the authority of Acrelius for saying that Minuet remained in the colony for three years, and held his fort against the Dutch, and that "after some years of faithful service he died at Christina."[2]

Other writers claim, that after establishing his colony, Minuet returned to Sweden, in 1639.[3]

During the first three years, the existence of the Swedish colony on the Delaware was most precarious. All that saved the colony from falling into the hands of the Dutch was the opportune arrival, in 1641, of a vessel from Sweden, bringing new settlers and fresh supplies.

This year, 1641, Peter Minuet was succeeded as Commandant or Deputy Governor by Lieutenant Peter Hollandare, a Swede. Of Hollandare's ad-

[1] O'Call, Vol. I, p. 192. Haz. Ann., p. 45.

[2] Acrelius Mem. Hist. Soc. Pa., p. 28.

[3] In support of this theory, Dr. Reynolds, in a note on page 28 of his translation of Acrelius, quotes from Odhner's "Sveriges Inre Historia" a statement that Minuet returned to Sweden in 1639. and did not again make his appearance in the Swedish service, either in America or in Europe, and that in July, 1639, Peter Hollandare was nominated as commandant of Fort Christina.

ministration we know as little as of Minuet's. It was brief, lasting but eighteen months, and at its close, Hollandare returned to Sweden, where he was placed in command of the arsenal at Stockholm,[1] and was a major at Skepsholm, in Stockholm, in the year 1655.[2]

On the 15th of February, 1643, John Printz, of Stockholm, a Swedish lieutenant of cavalry, who had been appointed on the 15th of August of the preceding year, to succeed Hollandare as Governor of New Sweden, arrived at Fort Christina.

No uncertainty, as in the case of his predecessors, is attached to Printz's title as Governor of New Sweden, for there is a clear record both of his appointment and of the instructions he received from Queen Christina. His coming was most auspicious for the colony; for under his administration it rapidly advanced in numbers and power. Great inroads were made on the Dutch inhabitants on the South river; valuable points were taken possession of; and their struggle to maintain their trade with the Indians proved unavailing—Swedish authority was peramnently established on the Delaware.

Printz, upon his arrival, located the seat of government on the Island of Teneko, now Tinnicum,[3] and here built Fort New Gottenberg, and his own residence, which he called "Printz's Hall."

At this time, the Dutch possessed Fort Nassau, further up the river, while the Swedes held Fort Christina below. During this year, Printz also built Fort Elsenborg near the mouth of the river. Fort Casimer was built by the Dutch near the present town of New Castle, in the year 1651.

It was, therefore, at Tinnicum that law and justice was first regularly administered within the present limits of Pennsylvania, for prior to Printz's coming, the people sought redress for their grievances at Fort Christina.[4]

John Printz continued Governor of New Sweden until the year 1653, rendering such "faithful services" as to induce his queen to tender to him and "his lawful heirs" a special grant for the perpetual possession of the place called Teneko or New Gottenberg, (Tinnicum.)[5]

From the record of his appointment, and the "Instructions" given him by Queen Christina,[6] we learn something of the method of Printz's administration.

In the document appointing Printz, which bears date at Stockholm, August 16, 1642, he is ordered to defend the inhabitants of New Sweden against "all violence and foreign attachment," and "to preserve, above all, that country in safe and faithful hands. Also, he must preserve amity, good neighborhood, and correspondence with foreigners, with those who depend upon his government, and the natives of the country; to render justice without distinction, so that there shall be injury to no one, and if

[1] Clay's Annals,
[2] Acrelius, p. 28.
[3] Hazard Ann., p, 70.
[4] Introduction Upland Court Records, p. 27.
[5] Pa. Arch., 2d Ser., Vol. V, p. 776.
[6] *Ibid.*, pp. 764–766.

any person behave himself grossly, he must punish him in a convenient manner."

In his instructions, he is commanded "to decide all controversies according to the laws, customs, and usages of Sweden, and in all other things he will adopt and follow, all the laudable manners, customs, and usages of the Kingdom of Sweden."[1] He is further ordered "to bring to obedience and order by necessary and convenient means, the mutinous and refractory persons who will not live in peace; and he may punish great offenders, if he finds any, not only by imprisonment and other proportionate punishments, *but even with death*, according to the crime, if he can sieze the criminal; but not otherwise than according to the *ordinances and legal forms*, and after having sufficiently considered and examined the affairs with the most noted persons, such as the most prudent *assessors of justice* that he can find and consult in the country."

In the year 1653, Printz having expressed a desire to return home to New Sweden, permission so to do was granted him by Queen Christina.[2] He was requested, however, not to leave the colony until a successor to him as Governor was appointed. This request, if received at all before his departure, he seems to have disregarded, for according to the best authorities, he sailed for Sweden near the close of the year 1653,[3] leaving as Governor of New Sweden in his stead, John Pappegoya, his son-in-law. Arrived at home, Printz was made a general, and, in the year 1658, was appointed Governor of the District of Jönköping. He died in 1663.[4]

During Printz's administration, in all probability, were laid the foundations of the town of Upland (Indian name, Necoponacka) on the Delaware, the present town of Chester, Pennsylvania, which town played a most important part in our early legal history, as will later and more fully appear. Upland is first mentioned as a place in the year 1645. From its name, it appears to have been of Swedish origin, but we have no knowledge of the title by which the Swedes held it.

John Pappegoya, whom Printz left in charge of the government of New Sweden upon his return to the mother country, came to New Sweden about the close of the year 1653, highly recommended to Printz by Queen Chris-

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[1] "This, although but a glimpse, is sufficient to show that no special code was prepared for the government of the colony. The laws of the mother country were, in ancient times, various and conflicting, each province being governed by its own peculiar customs and statutes. About the year 1614, a compilation of these laws was made for the direction of the whole Kingdom, difficiencies and obscurities in doubtful cases being supplied or explained by the aid of the civil law.

"By this code, Printz was doubtless directed in the decisions which, as Governor and Chief Magistrate, he was bound to make; for although Swedish writers assert that trial by jury is of Swedish origin, no instance is known of its application in the colony."—*Armstrong's Introduction to Upland Court Records, Memoirs of Hist. Soc. Pa., Vol. VII, p. 30.*

[2] Pa. Arch., 2d Ser., Vol. V, p. 783.

[3] Hazard says November 7 was the date of his departure.

[4] Acrelius, Memoirs Hist. Soc. Pa., Vol. XI, p. 61.

tina[1] as one who had performed "good and faithful services," and who was worthy of protection in order to his advancement.

Pappegoya became Printz's son-in-law, and under his appointment as deputy, ruled New Sweden in the interval between the departure of Printz and the arrival of the new Governor, John Claude Rysinge. No account of his official acts seems to be in existence.[2] He remained in New Sweden. In July, 1654, Rysinge recommends him to the minister of Sweden, as a proper person to be appointed *Schute*, or Schout.[3] In 1656, after the conquest of New Sweden by the Dutch, he is still on the Delaware, for on the 30th of March, in that year, he announces to Governor Stuyvesant the arrival, at the Delaware, of a Swedish vessel, the "Mercury," and the refusal of the Dutch to allow its crew and passengers to land.[4] This is the last direct mention of him.[5] His wife, Amigart Printz Pappegoya, figures at a much later date, in the history of affairs on the Delaware, mention being made of her as late as 1672. She finally returned home to Sweden.[6]

On the 12th of December, 1653, John Claude Rysinge, formerly the secretary, but now commissary-elect of the Swedish Royal College of Commerce, was commissioned to visit New Sweden, with a view of assuming the direction of affairs in that colony, should Governor Printz insist upon his determination of returning to Sweden. Manifestly, the home government had not contemplated so sudden a departure on the part of Printz, as will appear from the tenor of Rysinge's instructions. In these instructions[7] it is provided, among other things, that there shall be no such interference, by Rysinge, with the Dutch posession of Fort Casimer, on the Delaware, as will provoke a controversy, it being deemed better that the Dutch should be allowed to occupy their fortress, than that it should fall into the hands of the English, of which there was much danger, in the event of open hostilities between the Dutch and the Swedes, in that quarter, as the English, from New England, coveting the region of the Delaware, were continually encroaching on the rights assumed by its present possessors.

Rysinge's disregard of his instructions, in this particular, was a most unfortunate thing for the Swedes, as the sequel shows, being the direct cause of the almost immediate overthrow of Swedish power on the Delaware.

Between the 27th and 31st of May, 1654, Rysinge arrived at the Delaware, upon the ship *Eagle*, together with "various officers, officials, and military,"[8] and, finding that Printz had departed, declared himself Director-General of New Sweden, and, as above stated, relieved John Pappegoya of any further direction of affairs in the colony.

His first act was an express and fatal violation of his instructions. Arrived before the Dutch Fort Casimer, which was, at the time, under com-

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[1] Pa. Arch., 2d Ser., Vol. V, p. 775.
[2] Hazard's Ann., p. 142.
[3] *Ibid.*, p. 155.
[4] *Ibid.*, p. 212.
[5] Acrelius says Pappagoya returned to Sweden directly after the arrival of Rysinge.—*See Memoirs Hist. Soc. Pa., Vol. XI, p. 65.*
[6] *Ibid.*, p. 143.
[7] Hazard, p. 143.
[8] Acrelius' Mem. Hist. Soc. Pa., p. 62.

mand of Gerrit Bikker, Rysinge demanded the immediate surrender of the fort and the river, and Bikker, without even a show of resistance, surrendered the fort unconditionally. Heedless of the result of his rash act, Rysinge proceeded to establish his government, so far as circumstances would permit, in accordance with his instructions. He made as favorable terms with the Dutch settlers and Indians as possible. Summoning the latter to a grand conclave, at Printz Hall, on Tinnicum Island, and making a treaty with them, he purchased lands, to which they gave him, at least, the show of a title.

That a full understanding may be had of what is to follow, mention must here be made of one Captain John Admunson Besk. Prior to the commission of Rysinge,[1] on account of services rendered, this individual had received the grant of a tract of land in New Sweden, and the commission of "a captain in the navy."[2]

Presuming that Printz still remained in New Sweden, the Swedish Government had instructed him, through their commission to Rysinge, to render to the latter a full statement of the situation of civil and military affairs in the colony.

Under the new *regimé* the military affairs of the colony were to be placed under the command of Admunson.

Printz was further commanded to establish "a council, formed of the best instructed and most noble officers in the country," of which Rysinge was to be director. But neither he nor Admunson, the military governor, had the power of deciding or approving anything without consultation with each other. In the event of Printz's remaining in the country, the right of choosing his council was guaranteed to him, but he was to accept Rysinge as commissary and assistant counsellor.[3]

Relieved of all obligations to Printz by the absence of that individual, Rysinge, doubtless, modified these instructions to suit the circumstances. But his lease of power was limited; too much so, in all probability, for him to mature the plans of his administration.

When the West India Company, in Holland, were apprised of the capture of Fort Casimer, it aroused their indignation and anger. Director-General Stuyvesant, at New Amsterdam, was ordered[4] "to exert every nerve to revenge that injury, not only by restoring affairs to their former situation, but by driving the Swedes from every side of the river, as they did with us, provided that such among them as may be disposed to settle under and submit to our government, may be indulged in it."

On the 4th of September, 1655, Stuyvesant, with seven vessels and about six hundred men, set sail for the Delaware, and invested Fort Casimer, which capitulated on the 11th of September. The downfall of Casimer was followed by the surrender of Fort Christina, by Rysinge, on the 25th of the same month. Thus, in less than fifteen months from the inception of Rysinge's government, followed the conquest of the entire

[1] November, 1653.
[2] Pa. Arch., 2d Ser., Vol. V, Hazard's Ann.,
[3] Hazard's Ann., p. 144.
[4] *Ibid.*, p. 168.

colony by the Dutch, under Peter Stuyvesant, and the overthrow, forever, of Swedish authority on the Delaware.

Governor Rysinge, after mortgaging the Swedish Company's property for his own private debts,[1] sailed for home, but was obliged, on account of unfavorable weather, to land in England. From that country, shortly afterwards, he returned to Sweden, where we hear of him again, and the last time, in the year 1661, when he is reported[2] under arrest for his behaviour on the Delaware, but is promised immunity from punishment, if he will recover the lost territory.

The destruction of the Swedish archives, at Stockholm, by fire, has left us in the dark, to a large extent, as to the doings of the Swedes on the Delaware. In the fragmentary record, only a vestige, here and there, of the rules, regulations, and laws of their colonial government in that quarter remains. A mere trace, fitful at best, and rendered more faint by the shadows of time. If the reader has been able to catch a glimpse of it, the full purpose of the writer, in this particular, has been attained.

[1] Hazard's Annals, 189. Acrelius, 78.

[2] Hazard's Ann., p. 324.

Minuet's Monument.

CHAPTER III.

THE DUTCH DOMINION, 1655–1664.

Stuyvesant's conquest of the Swedes was immediately followed by the establishment of a Dutch form of government on the Delaware, and the appointment, by degrees, of proper officers for the enforcement of law and the administration of justice.

Upon his departure for New Amsterdam, Stuyvesant appointed Deryk Smidt to act as commissary or commandant of the conquered territory, until the arrival of such person as should be appointed to be Vice Director or Governor.[1]

On the 29th of November, John Paul Jacquet was appointed "Vice Director and Chief Magistrate on the South river of New Netherlands, as well for the forts, territories, and other places situate upon said river,"[2] and with his administration was inaugurated a more settled condition of affairs upon the Delaware.

The several administrations, under the dominion of the Dutch, were as follows:

Director General of New Netherlands.

PETER STUYVESANT, 1655—1664.

Vice Directors, or Commandants on Delaware.

DERYCK SMIDT, (*pro tem.*) 1655.
JOHN PAUL JACQUET, 1655—1657.

Colony of the Company.	*Colony of the City*
GREGORIUS VAN DYKE, 1657—1658.	JACOB ALRICKS, 1657—1659.
WILLIAM BEEKMAN, 1653—1663.	ALEX. D'HINOYOSSA, 1659—1663.

Consolidated Colony of the City.

ALEXANDER D'HINOYOSSA, 1663—1664.

Under Stuyvesant, the government of the New Netherlands consisted of a Director General and Council. Fiscaal or Schout was the name of the principal prosecuting officer.

[1] Acrelius, p. 88. Hazard's Ann., p. 204. Pa. Arch., 2d Ser., Vol. VII, p. 493.
[2] Pa. Arch., 2d Ser., Vol. VII, p. 490.

The office of Fiscaal, or Schout, as more frequently designated, was a most important one. Officers bearing this name, and delegated with many of the powers of the office, were appointed on the Delaware during the continuance of Dutch power in that quarter. For a proper understanding of future references, a brief description of the duties of this office is appended.[1]

The Council of the New Netherlands had the supreme authority to make laws and execute them throughout their jurisdiction. It was the tribunal for the trial of both civil and criminal cases. Distant settlements, however, were allowed their own courts, from which an appeal lay to the Director-General and Council of New Netherlands. The principal prosecuting officer was called the "Schout," whose duties combined both those of a sheriff and a district attorney, or attorney general. He convened the judges and prosecuted the case. The name "'Schout' is derived from Shuld-debt, and he is so denominated, because he is the person who recovers or demands common debts, according to Grotius."[2]

The Schout "was charged specially with enforcing and maintaining the placards, laws, ordinances, resolutions, and military regulations of their High Mightinesses the States General, and protecting the rights, domains, and jurisdiction of the Company, and executing their orders, as well in as out of court, without favor or respect to individuals; he was bound to superintend all prosecutions and suits, but could not undertake any actions on behalf of the Company, except by order of the Council; nor arraign, nor arrest any person on a criminal charge, except on information previously received, or unless he caught him *in flagrante delicto*. In taking information he was bound to note, as well those points which made for the prisoner, as those which supported the charge against him, and after trial, he was to see to the proper and faithful execution of the sentence pronounced by the judges, who, in indictments carrying with them loss of life and property, were not to be less than five in number. He was, moreover, specially obliged to attend to the commissaries arriving from the Company's out-posts, and to vessels arriving from or leaving for Holland, to inspect their papers and superintend the loading and discharging of their cargoes, so that smuggling may be prevented; and all goods introduced, except in accordance to the Company's regulations, were at once to be confiscated. He was to transmit to the Directors, in Holland, copies of all information taken by him, as well as all sentences pronounced by the court, and no person was to be kept long in prison, at the expense of the Company, without special cause, but all were to be prosecuted as expeditiously as possible before the Director and Council."

"The Schout fiscaal of New Netherlands had no voice in the Council. He was privileged to sit in that body merely when questions rose relating to finance, justice or police, and give his opinion when asked, but not to

[1] Quoted in the main from O'Call. Hist. N. N., Vol. I, p. 102, &c.

[2] Van Leemon's Com. on Roman Dutch Law, in note in O'Call.

vote. He was strictly forbidden to accept presents or gifts from any person whatever, and had to content himself with the civil fines and penalties adjudged to him, and such parts of the criminal fines as confiscated wages of the Company's servants as the Director and Council, after prosecution, might allow. He was not to have any part, however, of captured prizes or confiscated goods."

After the incorporation of New Amsterdam, its government underwent a change. Burgomasters and Schepens were appointed, who, together with the Director General and the Company's Schout, conducted the affairs of the city.

It was intended, as will appear later, to establish a government of this character in the city's colony on the Delaware, under Alrichs.

Administration of Jacquet.

JOHN PAUL JACQUET, Vice Director.
ANDRIES HUDDE, Secretary, &c.

John Paul Jacquet, as above stated, was appointed Vice Director on the Delaware, on the 29th day of November, 1655, and took the oath of office on the 8th day of December following. Jacquet was formerly doing service for the Dutch West India Company in Brazil, and possessed the entire confidence of the Company.

From an inspection of his letter of appointment, and the "provisional instructions" given him,[1] we learn something of the method of his administration.

In his letter of appointment, he is commanded "to give orders, and have them observed, in all matters concerning trade, policy, justice, and military;" and further, "to administer law and justice to citizens as well as soldiers."

To Jacquet, in his instructions, was delegated "the first place and voice in all Council meetings;" which meetings were to be convoked by his order alone, and when so convoked, had authority to decide all questions by "a majority of votes," and in case of a tie, the Vice Director was to have "a double vote."

For the present, the Council was to be constituted as follows:

JOHN PAUL JACQUET, Vice Director.
ELMERHUYSEN CLEYN,
ANDRIES HUDDE, Secretary.

In the trial of all matters of a military nature, which came before this Council, "two Sergeants" were to be added to the Board; but in civil affairs between freemen and the servants of the Company, "two suitable freemen" were to take the place of the military Sergeants.

Andries Hudde was appointed "Secretary and Surveyor." Upon him was enjoined the duty of keeping a record of the proceedings of the

[1] Pa. Arch., 2d Ser., Vol. VII, p. 491.

Council, and in conjunction with the Vice Director, "a good journal and daily record" of what might happen in the colony. His duties were, in general, those of a "Schout" or "Schout Fiscaal," so far as it was necessary for duties of that character to be performed.

The Vice Director was specially charged "to strictly observe and have observed the *published ordinances* against the sale of strong drink to the Indians; the robbing of gardens and plantations; running about in the country, and drinking on or profaning the Sabbath day."

He was also instructed to keep a strict watch upon the Swedes, who did not appear to possess the entire confidence of the Dutch, although they were allowed, by the terms of the capitulation of Fort Christina, to take the oath of allegiance, and remain in the colony if they saw fit. Those of the Swedes whom the Vice Director found reason to distrust, he was ordered to make leave, "with all possible politeness."

In order that the colony might be, to a certain degree, self sustaining, a revenue was to be provided, by the taxation of inns or taverns, and the general sale of liquor.

This excise was to be laid after the "laudable custom" of Holland, as follows:

For a hogshead of French or Rheinish wine,	20	florins.[1]
" an Anker of " " "	4	"
" an Anker of brandy, Spanish wine, or distilled spirits,	7	"
" a Tun of imported beer,	6	"
" a Tun of New Netherlands beer, larger or smaller quantities in proportion,	4	"

In the distribution of land, the Vice Director, in lieu of tithes, was commanded to "exact provisionally" annually, from each morgen[2] of land, a tax of twelve stivers,[3] and the holders of the land were to concentrate themselves in villages of at least sixteen or twenty persons or families together.

In the conduct of affairs in the colony, these instructions to Jacquet were carried out, modified, however, to some extent. The following are some fragments of the record of his administration:[4]

On the 20th of December, 1655, the following duties were imposed on liquors:

French wine,	20	guilders	per hogshead.
Brandy and distilled water,	6	"	" tun.
Holland or foreign beer,	4	"	" tun.

[1] A florin was about forty cents; a guilder, thirty-eight cents. "The current money of the Hollanders in New Netherlands was in guilders or florins, as follows: One Holland guilder passed for five (5); and so it continued until about the year 1700. After that, one (1) for six (6); but it was unsettled after English coin came in. The Indian wampum was by the Hollanders called *sewant*.—*Acrelius, p. 91.*

[2] About an acre. [3] Twenty-four cents. [4] Hazard's Ann., pp. 207–209.

On the same date, the sale of liquors to the Indians was positively prohibited.

On the 25th of December, a license of marriage is recorded, between William Mauntz, "a young man from Wallshire, old about 33," and Jannitze Tomas, "old about 16 years."

On the 19th of January, 1656, Mathys Busain was appointed by the Director General to be a Court Messenger at Fort Casimer, and the appointment is ratified by Jacquet.

On the 13th of February, it was ordered by Council, that all persons should inclose their lots on or before the 15th of March, or upon failure so to do, to pay a penalty of six guilders. At the same time, owners of goats were ordered to provide keepers for them.

Thomas Broen is charged with striking a servant, so as to incapacitate him for labor. For this offense, the accused was ordered to provide for the servant until he is able to work. For abuse of the Director Jacquet, Broen was on tht same day placed under arrest.

On the 4th of February, a qualification was made before Andries Hudde, Secretary, in regard to a marriage, "which was delayed completion till a minister of the gospel should arrive here."

On the 22d May, ordered that swine be yoked or killed by the soldiers.[1]

On the 14th of June, Jews were prohibited from trading on the South river.

In July, a Swede and Finn were arrested for selling liquor to the Indians, in violation of the law, but *pleading ignorance of the law, were discharged.*

The recovery of the territory on the Delaware from the possession of the Swedes, proved to be, to the Dutch West India Company, a most costly undertaking. The Company were largely in debt to the city of Amsterdam for the services rendered them on the occasion of the conquest, while their liabilities in other directions were assuming uncomfortable proportions.

In order to relieve themselves of the debt due to the city of Amsterdam, it was now proposed, May, 1656, to cede to the Burgomasters of that city a portion of their colony on the Delaware.[2]

It was finally agreed that the country on the west side of the river, extending from Minquas, or Christina Kihl (creek), to a point in Delaware bay, called by the Swedes, "Spinnell Udden," by the Dutch, "Boomties Hoeck," or Bombay Hook, and by the Indians, "Canaresse," and, "so far to the landward as the boundaries of the Minquas country," should be the "City's Colony," and be under the jurisdiction of a committee of the Bur-

[1] Hazard's Ann., p. 219.

[2] O'Call., Vol. II, p. 327.

gomasters of Amsterdam.[1] The land north of Fort Christina, along the river, remained under the jurisdiction of the West India Company, and was called the "Company's Colony."[2]

All of the territory on the Delaware, within the present limits of Pennsylvania, was, consequently, under this arrangement, which was consummated on the 12th of April, 1657, in the Company's colony. Fort Casimer was now called "New Amstel," and Fort Christina, "Altona."

Meanwhile the administration of Jaquet had become so obnoxious to the people, that complaint after complaint reached the ears of Director-General Stuyvesant. Finally, on the 20th of April, 1657, Jacquet was removed from his position, and ordered to return to Manhattan.[3] His successor, Jacob Alrichs, had already received his commission as commissary general of the city's colony, and was *en route* for the Delaware.

The charges against Jacquet culminated in an order for his arrest, by Attorney General N. De Sille. On the 12th of June, 1657, he appeared before the council at Manhattan, and heard the accusations against him read, and we last hear of him, in this connection, as figuring in court, where, on the 10th of June, he filed an answer to the charges, which answer the Attorney General, De Sille, rejects, informing Jacquet that he must answer "*ilico* on the accusation, or return to his arrest."[4]

Administration of Alrichs.

Jacob Alrichs was commissioned Vice Director, or Commissary General, of the city's colony on the Delaware, on the 19th of December, 1656, and sailed from the Texel on the 21st of the same month, in a vessel named the "Prins Maurits." A long, tedious voyage, which, on account of unfavorable weather, and the ignorance of pilots, culminated in the wreck of the Prins Maurits. Alrichs succeeded in landing at a point on Long Island, about the 9th of the following March. Proceeding to New Amsterdam, he reported to Director General Stuyvesant. From New Amsterdam, he sailed for the Delaware, in the ship "Bever," on the 16th of April, and arrived at New Amstel (Fort Casimer) on the 21st of the same month. Receiving the keys of the fort from Vice Director Jacquet, Alrichs took possession of the city's colony on the Delaware, by virtue of a deed executed by Stuyvesant, in confirmation of the title of

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[1] Penna. Archives, 2d Ser., Vol. VII, p. 501.

[2] In regard to this division of the Delaware district, Acrelius, in his History of New Sweden, makes a provoking mistake, by ascribing the boundaries of the city's colony to the colony of the Company, and *vice versa*. See page 89, Translation Hist. Society of Pa. As Acrelius is looked upon as a correct authority, this mistake is calculated dangerously to mislead; but all the writers of any note, on the subject, including Bryant in his new History of the United States, which, in Vol. II, p. 161, contains a note on the subject, follow the original documents in existence, relative to this period, which conclusively prove Acrelius to have been in error. The note in Bryant refers to the fact that Benjamin Ferris, in his "History of the Original Settlements on the Delaware," has followed Acrelius.

[3] Hazard's Ann., p. 233.

[4] *Ibid.*, p. 237.

the Burgomasters of Amsterdam to the territory comprised within the limits of that colony. This deed bore date April 12, 1657.

In the original agreement between the West India Company and the city of Amsterdam, for a transfer of a portion of the colony on the Delaware river, it was agreed[1] that the city should hold the colony "in the form of a fief," but the sovereign and supreme authority was to remain in the Dutch West India Company, subject, of course, to their charter.

The "conditions" offered to the colonists of the city[2] provided that matters of police and the administration of justice should be regulated the same as in Amsterdam, "whereof the practice and custom, particularly in regard to descents, shall be adhered to."

The colony was guaranteed, at first, one Schout, or officer, as the head of justice, who was to be appointed "in the name of their High Mightinesses and the West India Company, by the deputies of Amsterdam, who, for this purpose, shall give authority to the Director by a power of attorney." The Schout thus appointed was to be instructed, as was the custom in Amsterdam. Three Burgomasters, to be appointed from "the honestest, fittest, and richest." Five or seven Schepens, to be chosen by the Director, under a power of attorney, from a double number nominated. The duties of the Schepens were of a judicial character, to give judgment for all sums under one hundred guilders.[3] In cases exceeding one hundred guilders, the party aggrieved was allowed the right of appeal to the Director General and Council of New Netherland. The Schepens had authority, also, to pronounce sentences in all criminal cases, but an appeal from their judgment was provisionally allowed.

The Burgomasters of Amsterdam, as founders, patroons, and possessors of the jurisdiction, retained to themselves the right to appoint the secretary, messenger, and other inferior officers.

It was further guaranteed that when the city of New Amstel should number two hundred families, or more, the right should obtain to it of choosing "a common council of XXI persons," to whom, together with the Burgomasters, the government of the city should be entrusted. This common council, "once instituted," was to possess the authority "thereafter," to fill, by election, all vacancies caused by the death of its members. To this council, also, was to revert the right of annually choosing the Burgomasters and the nomination of the double number of Schepens.

By this agreement the Schepens were, as above seen, authorized to pronounce judgment by decree, for sums not exceeding one hundred guilders, but in cases involving larger amounts, the aggrieved party was at liberty to appeal to the Director, Schout, and Council of New Netherlands, and an appeal in all criminal cases was also allowed. With this arrangement, however, the colonists soon became dissatisfied; the jurisdiction was too limited, and the appeal in criminal cases was deemed a hardship. In response to the general demand, the West India Company, on the 21st of

[1] Pa. Arch., 2d Ser., Vol. V, p. 265. [2] *Ibid.*, p. 267. [3] $40.

March, 1662, granted an alteration of the original agreement, in these and other minor particulars. The jurisdiction of the Schepens was increased from one hundred to six hundred guilders, and the appeal in criminal cases abolished.

As to the inferior officers of Alrichs' government, outside of the military commanders who accompanied him, no definite provision seems to have been made before his departure from Holland, for in his letter to the commissioners of the city's colony, dated the 13th of April, 1657,[1] Alrichs says that "should a person suited for the office of Schout offer himself, make no delay in the matter, as when more people come here such an officer cannot well be dispenced with among new and rough people." The necessity for an officer of this character made itself felt to Alrichs, and immediately after his arrival, Andrias Hudde, secretary of Jacquet's administration, there "domiciled, also settled and licensed," was appointed to fill the same position, *pro tempore*, under the new administration, at a salary of thirty guilders per month. Hudde was also provisionally appointed to perform the duties of Deputy Sheriff or Schout.

As late as October 10, 1658, there seems to have been no regularly appointed Schout. Alrichs, again writing to the commissioners of the city's colony, says:[2] "I have repeatedly written for a clerk or book-keeper—Item for a secretary and Schout, without any result; not a word have I received in answer. I employ some now, provisionally, but without wages; not much is asked, therefore please to provide particularly what is required."

Upon the advent of Alrichs, he found the judicial government in the colony, as he himself describes it,[3] "to consist and be attended to by the Vice Director, or Commander, sitting over military delinquents, with military persons, and over civilians, with citizens." In this description Jacquet's mode of administering justice is plainly set forth.

Alrichs at once explained the changes between the old and new system. "I informed them," says he, "that this place had come under other masters, to whose orders they had to submit." Nevertheless, Alrichs allowed, for the time being, the old civil tribunal to remain in force, but constituted himself, and those who acted with him in the capacity of Councillors, a court of appeals from its decisions.[4]

That a regular set of laws, or, more properly speaking, ordinances, were sent from New Amsterdam to the Delaware, and there proclaimed for the general government of that territory, shortly after its conquest by the Dutch, there is no doubt, and there is evidence that Alrichs' instructions were to continue the general government of the entire river district under these ordinances, while the form of a municipal government for the town of New Amstel was provided for by the commissioners of the colony at Amsterdam. Writing to Director General Stuyvesant, on the 30th of

[1] Pa. Arch., Vol. V, p. 276.
[2] *Ibid.*, Vol. V, p. 304.
[3] *Ibid.*, Vol. VII, p. 526.
[4] *Ibid.*, Vol. V, p. 319.

March, 1658, Alrichs says:[1] "I have communicated to the Lieutenant and Commissary the transmitted ordinances and other matters." And again, on the 17th of May, in the same year, he requests of Stuyvesant that he will "please let the Hon. Secretary, Van Ruyven, know that the proclamations and ordinances *sent here for a few years hitherto, and published for the direction, and as laws or orders of this country*, are to be sent now to the Commissary Rynevelt."[2]

In regard to the laws provided by the Burgomasters of Amsterdam, Alrichs, writing to the Commissioners of the city's colony, says: "I have received the police and law books, *which were sent out*, consisting of two parts and a duplicate of each; they will be a great convenience to us, and we shall make use of them, but [not] the by-laws of the city, at the end of which the customs of Antwerp are annexed and printed, whereof mention was frequently made in the dispatch."[3]

The administration of Alrichs proved anything but successful. From its very inception the unsatisfactory condition of affairs on the Delaware was the cause of embarrassments and troubles innumerable to all persons interested. Alrichs' unwarranted assumption of authority over the whole river district, at the outset, was little relished by Stuyvesant, and led to an almost utter disregard of the Company's interests in that quarter. Smuggling became prevalent to an alarming degree, while the sale of liquor to the Indians, in violation of express ordinances, was the subject of almost daily complaint.

The continued presence of the Swedes on the river, and their persistent demands for recognition, was also a constant source of uneasiness to the Director General and the West India Company. Alrichs himself appreciated the fact that the Company's interests were suffering, and intimated to Stuyvesant the propriety of appointing some one to assume control of their affairs. At length, by permission of his Council, Stuyvesant paid a visit to the river in person, and became at once convinced of the propriety of making some concessions to the Swedes, and of the absolute necessity of appointing an agent to take charge of the Company's interests in the Company's colony.

In the summer of 1658, the Company sent to the river a worthy representative, in the person of William Beekman, who relieved Vice Director Alrichs of the responsibility of longer caring for the Company's interests; but still, with the latter, "affairs seemed to prosper little." The arrival in the colony of Colonel Utie, an emmissary of Lord Baltimore, unsettled the minds of the people, and was the forerunner of a controversy with Maryland in regard to the title of the lands on the Delaware, which, as it lengthened into detail, daily grew more vexatious.

A general and serious sickness fell upon the people; the ablest councillors and dearest friends of Alrichs were its victims. With the opening of the summer of 1659, his wife died, and with the close of the same year, on

[1] Pa. Arch., Vol. VII, p. 528. [2] *Ibid.*, Vol. VII, p. 534. [3] Pa. Arch., Vol. V, p. 304.

the 30th day of December, the Vice Director himself succumbed to the fatal influences of the fever, and his troubles were ended in death.

Considerable change in the conduct of the colony immediately followed. Alexander D'Hinnoyossa, who was named as Alrichs' successor, by a clause in the will of the latter, at once established himself as Vice Director, and with the basest ingratitude, forthwith instituted an investigation into the private affairs of the late Governor, at the same time making charges against him of the gravest character.

Having anticipated events somewhat, it is now necessary for a fuller understanding of the manner in which Alrichs' government was constituted, to revert to the earlier days of his administration.

On the 21st of August, 1657, the ship "Ballance," (De Waeg,) the coming of which Alrichs had anxiously awaited, arrived at the Delaware, bringing supplies. At this date, he informs us,[1] that seven Common Councillors were elected, and from this number three "new Schepens" were chosen, another Secretary and Schout. As nearly as can be determined, from the misty record, the officers of Alrichs' government were then as follows:

JACOB ALRICHS, Vice Director.

ALEX. D'HINNOYOSSA,
A. VAN RYNEVELT,
COR. VAN GEZEL, (Secretary,) } Council.

ANTHONY RADEMAN,
HERR ELMERHUYSEN,
JAM. WILLIAMSON, } Schepens.

GERRITT VAN SWERINGEN, Schout.

In a letter to Stuyvesant, in November, 1658,[2] Alrichs announces the death of Abraham Van Rynevelt, "Commissary and Councillor," on the 28th of the last month. In the same letter the death of Anthony Rademan, one of the Schepens, is also announced. After this visitation of providence, Van Sweringen seems to have acted in the Council in Van Rynevelt's stead, and assumed the duties of Commissary, in addition to those of Schout, while Hendrick Kip, apparently supplied, until after the death of Alrichs, the vacancy in the board of Schepens, caused by the death of Rademan.

At the close of Alrichs', and the beginning of D'Hinnoyossa's administration, by the arbitrary order of the latter, the Schepens, Elmerhuysen and Williamson, were discharged because they would not second D'Hinnoyossa in his efforts to defame the character of the late Vice Director.[3] In the Council, Van Gezel, for the same reason, gave place to John Crato.

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[1] Pa. Arch., Vol. V, p. 319.
[2] Pa. Arch., Vol. VII, p. 551.
[3] Pa. Arch., Vol. VII, p. 620.

The officers of the City's colony, when D'Hinnoyossa assumed control, were therefore:

Alex. D'Hinnoyossa, Vice Director.
G. Van Sweringen, Secretary and Schout.
John Crato, Councillor.

While, "in extraordinary cases, they associate to themselves Mr. Willems, the Surgeon, and Hans Block, Constable".[1]

Disheartened by the course matters had taken in their colony, the Amsterdam Commissioners, at the time of Alrich's death, were actually negotiating a re-transfer to the West India Company of their interest in the colony. Failing in these negotiations, the Commissioners determined to make one more effort to establish the colony on a firm basis, and Alex D'Hinnoyossa was confirmed as Alrich's successor.

If Beekman's accounts are to be believed, the conduct of D'Hinnoyossa, while in charge of the Government, was marked by gross carelessness, and an utter disregard of constituted ordinances, and especially of those forbidding the sale of rum to the Indians.

Reverting, now, to a consideration of the state of affairs in the Company's colony, prior to the appointment of Beekman as Commissary, &c., the situation of the Swedes attracts attention. Scarcely any privileges were allowed this people at the time of the overthrow of their power on the river by the Dutch, yet they seem to have retained an organization of their own, which, while it was not independent of the Dutch in action, was at least distinctively Swedish in composition. This was, undoubtedly, the case in Jacquet's time, as well as later. Although, as subsequently appeared, the West India Company was little inclined to grant any favors to the Swedes, nevertheless the Director General and Council of New Netherlands, on the 12th of January, 1657, recognized Gregorius Van Dyck as Swedish Sheriff on the Delaware, and permitted the appointment of magistrates; at the same time, however, commanding the Swedes to concentrate their houses, and form a village at one of the several places specified, among which was Upland.[2]

This command the Swedes did not hasten to heed, inasmuch as obedience to it involved the abandonment of much land desirable in situation, and already valuable.

When Stuyvesant paid his visit to the Delaware river, on the 8th of May, 1658, personally to inquire into the condition of the Company's affairs there, he found the Swedish organization as follows:[3]

GREGORIUS VAN DYCK, Sheriff.
OLOFFE STILLE, }
MATTHYS HANSON, } Magistrates.
PIETER RAMBO, }
PIETER COCK, }

[1] Pa. Arch., Vol. VII, p. 623.
[2] Hazard's Ann., p. 236.
[3] Pa. Arch., Vol. VII, p. 531.

SWENS SCHUTE, Captain.
ANDRIES I'ALBO, Lieutenant.
JACOB SWENSON, Ensign.

While at the river, the Director General, upon petition of the Swedes, granted them various privileges, conditioned upon their assuming an obligation of allegiance to the States General of the United Netherlands, the Directors of the West India Company, and the present and all future Directors General of the New Netherlands.[1] They were promised, among other things, that instructions should be sent them, to make use of in the course of their administration of justice, and for the better execution of their duties. A Court Messenger was also promised them, whose duty it should be to assist in serving summons, making arrests, and carrying out sentences. A request made by the Swedes, that in case any difference should arise between Sweden and Holland, they might be permitted to remain neutral, seems to have been acceded to by the Director General,[2] though upon this point writers differ.[3]

Van Dyck was removed from his position about the beginning of 1661, the duties of his office from that time on being performed by Beekman.

When, on the 30th of July, 1658, it was determined, by the West India Company, to appoint William Beekman Commissary or Commander of their colony on the Delaware, it was agreed he should have the same salary and emoluments as were allowed the former Vice Director, Jacquet, namely, fifty guilders per month, and two hundred guilders annually for commuta- of rations.[4] On the 28th of October, 1658, the oath of office was administered to Beekman, and he assumed command of Fort Altena, and the control of the Company's affairs on the Delaware.

By his commission,[5] Beekman held on the river, except within the limits of the city's colony, "provisionally highest authority over the Honorable Company's officers, also over the free men of whatever nation."

In regard to the prevention of smuggling and the punishment of smugglers, he was particularly instructed.

He was ordered to keep the Company's officers in good order and discipline, and to maintain and exercise among others "good law and justice, to the best of his knowledge, as well in civil as in military cases, also in criminal cases of minor degree, and this pursuant to the instructions formerly given either to the former Commissary or to the Swedish nation, as far as they are concerned in the legal action."

In the administration of "law and justice," he was ordered to employ the Sheriff and Magistrates appointed for the Swedish nation, which the record of his administration shows he did.

Thus, from this date, had the two colonies on the river separate and

[1] Pa. Arch., Vol. VII, pp. 531-533.
[2] Pa. Arch., Vol. VII, p. 533.
[3] *Vide*, O'Call., Hist. N. Neth., Vol. II, p. 372; also, Smith's Hist. Delaware County, p. 74.
[4] Pa. Arch., Vol. VII, p. 539.
[5] Pa. Arch., Vol. VII, p. 542.

distinct commanders, with jurisdictions intended to be, in many particulars, concurrent, but which the commanders themselves, prompted by jealousy or the demands of self interest, often construed to be absolutely independent, when diverse and independent action was fatal to peace and harmony.

After the death of Alrichs, and the accession of D'Hinnoyossa to the command of the city's colony, these clashings of authority became more frequent and fatally disastrons to the interests of both city and Company. If there was but "little of agreement" between Alrichs and Beekman, there was less between Beekman and D'Hinnoyossa. Despite the efforts both of the West India Company and the Burgomasters of Amsterdam, this lack of harmony continued until it became absolutely necessary, that either the Company or the city should assume entire control of the whole district. The Company, shrewdly forecasting the near future, saw the impossibily of success in this colonial enterprise, circumstanced as it was, so were the more ready to propose favorable terms for the transfer of the whole territory to the city.

After formal and somewhat lengthy negotiations, it was at length determined, on the 12th of February, 1663, that the Company should confer on the city the entire South or Delaware river, and the proprietorship of the land "beginning at the sea, upwards as far as the river extends, and on the north side three leagues from the bank of the river landward in, and on the south side as far as the land extends there to the English colonies."

By this grant, the "high and low jurisdiction" which the city possessed formerly over the colony of New Amstel alone was now extended over the whole territory on the river.

The formal transfer of the river to the city did not take place until the 22d of December, 1663, when a deed for the whole territory on the Delaware was executed, and Alexander D'Hinnoyossa became sole Commandant or Vice Director, and Beekman, left without position on the Delaware, was afterwards appointed Sheriff or Schout of a district on the North river.[1]

D'Hinnoyossa's administration was of short duration, extending from December 28 1663, to October 1, 1664. During this limited period, arrangements were made for extending the fur and tobacco trade; a governmental revenue was provided for, by the imposition of a tax on imported goods, and upon tobacco and furs exported; and to prevent trouble from savage excess, the brewing and distilling of liquors was prohibited in the colony.[2]

D'Hinnoyossa's rule was brought to an abrupt close on the 1st of October, 1664, by the conquest of the colony by the English under Sir

[1] For a biographical sketch of Beekman, *vide* O'Call. Hist. of N. Neth., Vol. II, p. 472—note.

[2] Hazard's Ann., p. 356.

Robert Carre, which proved to be a final quietus to Dutch authority on the Delaware, except for a short period of time during the year 1672.

D'Hinnoyossa, we learn,[1] offered to serve the English in the same capacity in which he had the Dutch, but the English declined having anything to do with him. He removed from the Delaware, and afterwards returned to Holland, and entered the army.

[1] O'Call. Hist. N. Neth., Vol. II, p. 554.

Arms of Holland.

CHAPTER IV.

UNDER THE ENGLISH, 1664—1681.

We now enter upon a very important, and, thus far, the most interesting period of the history of events upon the Delaware. For almost a decade Holland held, on the river, the supremacy gained in 1665 over the Swedes, who for seventeen years had maintained their colonial government there.

The tenure of the Dutch was at no time certain, constantly harrassed as they were, from the north and from the south, by the persistent efforts of the English to obtain a foothold on the soil. Had not the unsettled condition of affairs in England, during this period, rendered it impossible for that nation to aid her trans-atlantic colonies in their designs upon the Delaware district, in all probability Dutch rule in that quarter would have terminated some years earlier. With the restoration of the Stuarts, came the long expected crisis.

Various reasons are assigned for the grant of the New Netherlands to the Duke of York, by his royal brother, King Charles II., the king's "lack of respect" for the Dutch, and his determination to prevent the evil consequences which might arise from a permanent settlement of that nation in the midst of the British American colonies;[1] to dispossess the Dutch of their enjoyment of territory, to which the English claimed the title, and thus put an end to the disastrous disputes which were continually arising between the two nations;[2] to give expression to a general feeling of enmity to the States General of Holland, engendered by rivalry in trade, and by other causes;[3] through revenge against the Hollanders, who had intruded upon the supposed rights of the English in Africa, India, and elsewhere.[4]

Revenge and avarice were the ruling incentives which prompted the Duke of York to lay claim to the New Netherlands district, as a commensurate reward for his valuable services to the crown. Revenge against his old enemies, the Dutch, and an avaricious desire to secure to himself the advantages of the entire trade of that valuable country. King Charles, divining the motives of his brother, was not tardy in acceding to his wishes. On the 12th of March, 1664, the king granted to the Duke the coveted territory in the new world, comprising within its confines the entire extent of the New Netherlands, including our colonies on the Delaware, irrespective of Holland's claims and Holland's occupancy.

Thus, as the sequel shows, was created an anomolous condition of affairs.

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[1] Proud. [2] Hazard. [3] Gordon. [4] Acrelius.

An English government was inaugurated over the subjects of Holland, a hostile nation, with which war was inevitable, while, at the same time, in the government of the newly acquired territory, circumstances compelled the modification of English law to suit the prevailing ordinances of Holland, and the continuance in power, temporarily, at least, of the existing Dutch magistrates.

It is an interesting study, but one far beyond the scope of these pages, to trace the gradual uprooting of Dutch authority, and the implanting of English power on the Delaware, until step by step English customs and English laws prevailed. Holland was loth to loose her grasp upon the rich country, but in vain did she recite her lengthy chain of title, extending back well on to the beginning of the century. England's might proved the best title.

The history of this period is conveniently divided into three epochs, the first of which extends from the grant of King Charles to the Duke, in 1664, to the temporary re-conquest of the territory by the Dutch, in 1673; the second comprises the events incident to the second brief lease of power to the Dutch over the colonies, and the third includes the restoration of the Duke, the re-confirmation of his grant, and the absolute establishment of his laws.

By the King's letters patent, the Duke of York was granted the territory in and about the New Netherlands, to have and hold, "in free and common socage, and not in capite nor by knight service." The consideration named in the charter was the payment, within ninety days after demand, in each year, of forty beaver skins.

To the Duke, his deputies, agents, commissioners, and assigns, were given full and absolute power and authority "to correct, punish, pardon, govern, and rule," the inhabitants of the territory granted, "according to such laws, orders, ordinances, directions and instruments as by our said Dearest Brother or his Assigns shall be established, and in defect thereof in cases of necessity according to the good discretions of his Deputies, Commissioners, Officers or Assigns respectively as well in all causes and matters capital and criminal as civil both marine and others; So always as the said Statutes Ordinances and proceedings be not contrary to but as near as conveniently may be agreeable to the Laws, Statutes and Government of this our Realm of England; and saving and reserving to us our Heirs and Successors the receiving, hearing and determining of the Appeal and Appeals of all or any person or persons of in or belonging to the territories or islands aforesaid in or touching any judgment or sentence to be there made or given. And further, that it shall and may be lawful to and for our said Dearest Brother his Heirs and Assigns by these presents from time to time to nominate, make, constitute, ordain and confirm by such name or names stile or stiles, as to him or them shall seem good and likewise to revoke, discharge, change and alter as well all and singular Governors, Officers and Ministers which hereafter shall be by him or them

thought fit and needful to be made or used within the aforesaid parts and Islands. And also to make, ordain and establish all manner of orders, laws, directions, instructions, forms and ceremonies of Government and Magistracy fit and necessary for and concerning the Government of the territories and islands aforesaid so always as the same be not contrary to the laws and statutes of this our Realm of England but as near as may be agreeable thereunto. And the same at all times hereafter to put in execution or abrogate revoke or change not only within the precincts of the said territories or islands but also upon the seas in going and coming to and from the same as he or they in their good discretions shall think to be fittest for the good of the adventurers and inhabitants there. And we do further of our special grace, certain knowledge and mere motion grant, ordain and declare that such Governors, Officers and Ministers as from time to time shall be authorized and appointed in manner and form aforesaid shall and may have full power and authority to use and exercise Martial Law in cases of Rebellion, Insurrection and Mutiny in as large and ample manner as our Lieutenants in our Counties within our Realm of England have or ought to have by force of their commission of Lieutenantcy or any law or statute of this our Realm."[1]

Having obtained his grant, the Duke, on the 2d of April, 1664, issued a commission to Colonel Richard Nicolls, to be deputy governor over the territory in America, during his royal will and pleasure. All inhabitants in the country named were called upon to render obedience to the duly appointed deputy."[2]

By the King's appointment, with Colonel Nicolls, were associated Sir Robert Carre, Knight; George Cartwright, and Samuel Maverick, Esquires, as commissioners to visit, in turn, all of His Majesty's American colonies, and there to hear and determine all complaints and appeals, in military, criminal, and civil affairs, and so to proceed in all matters, that the peace and security of the country might be settled according to the instructions given them.[3]

In regard to the Dutch in and around Long Island, Colonel Nicolls and his fellow commissioners were, in their instructions, ordered to inform all persons interested that their design was to reduce those portions of the country under control of the Dutch to entire submission and obedience to the English government, now vested in the Duke of York, and so to determine affairs there that the Dutch should no longer monopolize the trade from that quarter, which they had wrongfully possessed themselves of, and continued to hold and exercise, without a shadow of right.[4]

It was left discretionary with the commissioners, whether they would first visit New England, or Long Island, but Long Island was suggested to be, properly, the first objective point, inasmuch as the troops which were to accompany the expedition might there find prompt employment.

The commissioners, thus, in these and other particulars fully instructed,

[1] Pa. Arch., Vol. V, p. 496. [2] *Ibid*, p. 509. [3] *Ibid*, 508. [4] *Ibid*, p. 501.

sailed from Portsmouth, England, in four vessels, carrying about three hundred soldiers and a considerable company of men.[1]

Arriving at Long Island about the middle of August, Colonel Nicolls, with his fleet, appeared before the city of New Amsterdam, and sent to Governor Stuyvesant a formal summons to surrender, at the same time promulgating a promise of protection to all persons who would submit to his Majesty's authority.

Stuyvesant, although advised to the contrary, at first refused to surrender, and prepared for resistance. Though not taken wholly unawares, the Dutch Governor soon found that he was not prepared successfully to resist the formidable force at command of Colonel Nicolls. He was compelled to capitulate, and after several days of negotiation, the fort and the city were finally, on the 8th of September, surrendered. The city, henceforth was called New York, and Fort Amsterdam, Fort James.

The surrender of New Amsterdam to the English, was followed, as a natural consequence, by the almost immediate reduction of the colonies on the Delaware, which section of country, being under the jurisdiction of the Burgomasters of Amsterdam, could not be surrendered by Stuyvesant, without the concurrent action of the city's agent.

On the 3d of September, Sir Robert Carre was commissioned by his associates, Nicolls, Maverick, and Cartwright, to proceed to Delaware bay and there reduce the Dutch. The original text of Carre's commission is as follows:

WHEREAS we are informed that the Dutch have seated themselves at Delaware bay on his Maty of Great Brittaine's Territories without his knowledge and consent and that they have Fortifyed themselves there and drawn a great Trade thither, and being assured that if they be permitted to go on, the gaining of this place will be of small advantage to his Maty: WE his Maties Cõmissioners by vertue of his Ma^ties^ Cõmission and Instruccõns to us given have advised and determined to endeavour to bring that Place, and all Strangers thereabout in obedience to his Ma^ty^ And by these do Order and appoint that his Maty's Frygotts the Guiney and the William and Nicholas and all the Soldiers wh^ch^ are not in the Fort shall with what speed they conveniently can go thither under the Cõmand of S^r^ Robert Carr to reduce the same, Willing and Commanding all Officers at Sea, and Land and all Soldiers to obey the s^d^ S^r^ Robert Carr during their Expedition. GIVEN under our hands and Seals at the Fort in New York upon the Isle of Manhatans the 3^d^ day of September 1664.

Signed by Maverick, Nicolls, and Cartwright.

In obedience to this order, Sir Robert Carre, with two vessels and no inconsiderable military force, shortly subsequent to the capture of New Amsterdam, set sail for the Delaware. After "a long and troublesome passage," he arrived in the Delaware bay, on the last day of September, and sailed past Fort New Amstel without provoking any hostile demonstrations from the Dutch, and was received by the Swedes and Finns, in the most friendly manner. On the day of his arrival a parley was held with the Dutch Governor and inhabitants of New Amstel, to whom the

[1] Hazard's Annals, p. 361.

object of the English expedition was made known. After duly considering the matter for the space of three days, the inhabitants finally agreed to the terms of surrender proposed by Sir Robert Carre; but not so Governor D'Hinnoyossa and the Dutch soldiers under his command, who immediately prepared for the defense of the fort. However, two well directed broadsides from the enemy's ships, and the sudden onslaught of his land forces, soon decided the matter; the fort capitulated "with an expenditure of two barrels of powder and twenty shot," by the English, and a loss, by the Dutch, of ten wounded and three killed.[1]

In accordance with instructions, Sir Robert Carre assumed command of affairs on the Delaware, after its reduction, with the seat of government at New Amstel, or New Castle, as it was now called, and immediately entered into an agreement "on the behalf of his Majesty of Great Britain," with "the Burgomasters, on behalf of themselves and all the Dutch and Swedes inhabiting in Delaware bay and Delaware river," for the government of the country.[2]

The following oath of allegiance was administered to the inhabitants:

I do swear by the Almighty God, that I will bear Faith and Allegiance to his Ma^tie^ of Great Brittain, & y^t^ I will obey all such cõmands as I shall receive from the Govern^r^ Depty Govern^r^ or other officers appointed by his Ma^ties^ Authority, so long as I live w^th^in these or any other his Ma^ties^ Territories. Given under my hand and Seal this 1^st^ day of October in the year of our L^d^ God 1664.

By the terms of agreement for the present government of the Delaware, it was provided:

1.—THAT all the Burgers and Planters will submit themselves to his Ma^ties^ Authority w^th^out making any resistance.

2.—That whoever of what Nation soever doth submit to his Ma^ties^ Authority shall be protected in their Estates real and personal whatsoever by his Ma^ties^ Laws and Justice.

3.—That the present Magistrates shall be continued in their Offices and Jurisdictions to exercise their civil Power as formally.

4.—That if any Dutchman or other person shall desire to depart from this river, that it shall be lawful for him so to do, with his Goods within Six Months after the date of these Articles.

5.—That the Magistrates and all the Inhabitants (who are included in these Articles) shall take the Oath of Allegiance to his Ma^tie^ and of Fidelity to the present Government.

6.—That all people shall Enjoy the liberty of their conscience in Church discipline as formerly.

7.—That whoever shall take the Oath is from that time a Free Denizen and shall Enjoy all the privileges of Trading into any of his Ma^ties^ Dominions as freely as any Englishman and may require a certificate for so doing.

8.—That the Scout, the Burgomaster Sheriffe, and other inferior Magistrates shall use and exercise their Customary Power in Adminis^on^ of Justice w^th^in their precincts, for Six Months or until his Ma^ties^ pleasure is further known.

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[1] Penna. Arch., Vol. V, 550. [2] *Ibid*, 544.

The whole country being now brought under subjection to the English, Colonel Richard Nicolls assumed control of the government, by virtue of the Duke's commission to him, as Deputy. Of Nicolls, it has been said that he "governed the province for nearly three years, with justice and good sense. He settled the boundaries with the Connecticut colony, which, yielding all claims to Long Island, obtained great advantages on the main, pushing its line to Marmaroneck river, about thirty miles from New York; he prescribed the mode of purchasing lands from the Indians, making the consent of the Governor requisite to the validity of all contracts with them for the soil, and directing such contracts to be entered in the public registry; he incorporated the city of New York, under a mayor; five aldermen, and a sheriff; and, although he reserved to himself all judicial authority, his administration was so wise and impartial that it enforced universal praise."[1]

The rule of Colonel Nicolls terminated in May, 1667, when he was succeeded by Colonel Francis Lovelace.

On the Delaware, the government remained in charge of Sir Robert Carre, with Captain Robert Needham, acting as military commander, under the agreement above recited, continuing the Dutch magistrates in office, without modification, until the 21st of April, 1668, when certain important changes were made by Governor Lovelace, under Captain John Carre, as Deputy. It was ordered:[2]

That to prevent all abuses or oppositions in Civil magistrates, so often as complaint is made, the commissioned Officer Captain Carre shall call the Schout, with Hans Block, Israel Helme, Peter Rambo, Peter Cock, Peter Alrichs or any two of them as Councillors, to advise hear and determine by the major vote, what is just, equitable and necessary in the case or cases in question.

That the Commissioned officer Captain Carre in the determination of the Chief Civil affairs, whereunto the temporary forementioned Councillors are ordained, shall have a casting voice where votes are equal.

That the new appointed Councillors are to take the oath to his Royal Highness.

That the fines for Praemunires and light offences be executed with moderation; though it is also necessary that all men be punished in exemplary manner.

That the laws of the government established by his Royal Highness be showed and frequently communicated to the said Councillors and all others, to the end that being therewith acquainted, *the practice of them may also in convenient time be established*, which conduceth to the public welfare, and common justice.

That in all matters of difficulty and importance recourse must be had, by way of appeal, to the Governor and Council at New York.

Under Governor Lovelace the work of adjusting the government of the Delaware, so as to bring it slowly, but steadily, into conformity with English law, progressed systematically year by year, until it received an unexpected check in 1673, by the total, but temporary, suspension of English authority, incident to the second conquest of the country by the Dutch.

[1] Gordon.

[2] Pa. Arch., Vol. VII, p. 722.

Ordinances for the government of the Delaware were promulgated by the Governor and Council at New York,[1] from time to time as circumstances required.

The more important of these are subjoined in chronological order.

Ordinances, June 14th, 1671.

1. That a block-house be erected in the town of New Castle for the common defense.

2. That no vessel shall be permitted to go up the river above New Castle, to traffick.[2]

3. That no person in Delaware shall be permitted to distill liquors, but such as give in their names to the officers at New Castle from whom they shall have license so to do, and also that such Distillers shall pay or cause to be paid one guilder per can for all strong liquors that they shall distill, the which shall go toward the reparation of the New Block-house or fort, or some other public work.

4. That the number of Victuallers or Tappers of strong drink be ascertained; that is to say three only for the town and some few up the river, who the officers shall think fit to approve of, and no more than will be found convenient; who may have license to do the same, whereby disorders will be prevented and travellers have better accommodation.

5. That constables may be appointed to keep the Kings peace, who shall have staves with the Kings Arms upon them as practiced in the rest of his Royal Highness' dominions.

6. That they may have the Kings Arms to be set up in their Courts of Judicature, as well as on the staves, the which they will be at the charge of themselves.

7. That the Governor doth allow of all such (land) grants as the officers at Delaware have already passed, and doth order that those now presented by Captain Carre and Mr. Wharton have patents of confirmation, upon the same terms and conditions as the rest of the planters in Delaware river, under his Royal Highness' protection do enjoy their land; with this condition that each planter shall be obliged to settle upon the land for which they have patents in some convenient time to be appointed for the same; and likewise that they maintain a house lot in the town, or towns intended to be erected for their mutual defence, to the which they shall be nearest related.

And for the future, it is expected, before any grant be absolutely made there by the officers that the desire of all such persons who are willing to take up land, together with the quantity thereof be first transmitted to the Governor here, who as he shall so cause will issue forth an order to the Surveyor there to make a survey thereof, the which being certified they may have patents of confirmation for the same. In the meantime the officers are to give encouragement to any such persons, who shall make application unto them for land, who may withal be acquainted with this order.

8. That those orders made at the time of the trial of the Long Finne[3] at New Castle do stand good, and the officers there are to cause them to be put in execution. But withal they are to return hither a duplicate thereof, whereby it may the better be adjudged how long time they may be practicable.

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[1] *Vide* Pa. Arch., Vol. VII. [2] This prohibition removed Jan. 27, 1672. [3] *Vide infra.*

9. About clearing the way between New Castle and Mr. Augustine Herman's plantation,—if those of Maryland are willing to do their part,—the officers at New Castle are hereby empowered to enjoin the inhabitants at Delaware likewise to clear their proportion.

10. That a person shall be appointed and sworn at the town of New Castle to be Corn Meter, who may not only see the corn duly measured, but prevent sending thereof abroad for fowl, by ordering it to be well cleansed; and also that the said officers have an inspection and do view their beef and pork that it may be well packed and merchantable.

11. Concerning the Mill as also one pair of Millstones not used, but lying in the mud or water, it is ordered that care be taken for the letting out of the said mill for the best advantage, to some persons who will undertake the same, and that the profit thereof be reserved for the public; and for the millstones not used, they are to be taken up and preserved till further orders.

12. Respecting the prohibition that no quantities of liquors shall be sold to the Indians under a quarter of an ancker, half, or a whole ancker, it is left to the discretion of the officers there to do therein as shall be thought most convenient.

13. That it is left to the care of the Captain Carre and the rest of the officers in New Castle to see that the materials in the fort be preserved in the best manner they shall think fit, who have likewise liberty to dispose of such of them toward the erecting of the new fort, or block house as there shall be occasion.

14. Respecting the tenure of the land at Delaware, it is to be held in free and common socage, as his Royal Highness by his Majesty's patent holds all his territories in America, that is to say, according to the custom of the Manor of East Greenwich, only with this proviso, that they likewise pay the quit rents, reserved in their several patents as an acknowledgement to his Royal Highness.

About this time, the white inhabitants on the Delaware began to have serious trouble with the Indians, who had lately committed some horrible murders, and threatened others. It therefore became necessary for Governor Lovelace to take such steps toward the chastisement of the Indians as would prevent the recurrence of these outrages in the future.

As a preliminary step, the inhabitants were ordered "to retire into towns for their better safety and security," as soon as convenient. The coöperation of the Governor of the province of New Jersey was asked in this undertaking, and by agreement between Governor Lovelace and Governor Carteret, of New Jersey, a Council was held in Elizabeth Town, in that province, on the 7th of November, 1671, at which it was "resolved and concluded," that the then season of the year, for various good reasons, was not a fitting time to begin a war with the Indians, who would likely take part with the murderers, but that the officers on the Delaware should take such steps as would lead to the arrest, conviction, and punishment of the murderers, and in the meantime, cause the inhabitants to conform, as nearly as possible, to what had been resolved by the mutual Council in the following[1]

[1] *Vide* Pa. Arch., Vol. VII.

Ordinances for Defence.

Ordered, That the inhabitants at New Castle and parts adjacent upon Delaware river be digested into several companies as the towns and number of men will permit; and upon return of the names of the officers that shall be chosen amongst them to have the command of such companies, they shall have commissions for their respective employments under his Majesty's obedience. In the meantime, those officers that shall be chosen are to act and proceed with allowance until they are confirmed.

That every person that can bear arms from 16 to 60 years of age, be always provided with a convenient proportion of powder and bullet fit for service, and their mutual defence, upon a penalty for their neglect herein to be imposed by the commissioned officers in command, according to law.

That the quantity or proportion of powder and shot to be adjudged competent for each person be at least one pound of powder and two pounds of bullet; and if the inhabitants of the river shall not be found sufficiently provided with arms, his Royal Highness' Governor is willing to furnish them out of the magazine or stores, they being accountable and paying for what they shall receive, to the Governor or his order.

That the places, where the "Towne-ships" upon the river shall be kept, be appointed and agreed upon by the Schout, Commissaries and the rest of the officers there, according to their proposal sent, as also where the block-houses and places of defence shall be erected, as well in the Town as in the River.

That all former prohibitions of selling powder and ammunition to the Indians, under what penalty soever be suspended or left to the discretion of the officers, as they shall see occasion until further orders.

That no corn or provisions be transported out of Delaware unless that which is already on board or intended to be shipped in the Sloop of Thomas Lewis (now in that river) for the which he shall have a special license or permit, until further order.

That the officers and Magistrates at Delaware be hereby empowered and authorized to treat with the neighbors Indians, of the Susquehanas or others join together against the murderers and such as shall harbor them, or take their part, if occasion shall require and promise them such reward as they shall think fit. Provided that it be done with great privacy and caution, so that no sudden jealousy be given to the persons intended to be prosecuted or their confederates.

That the afore-recited officers and magistrates upon all emergent occasions do take care by all means, that shall present, as well by expresses, to give an account hither of what from time to time shall happen there in relation to this matter, which said expresses and messengers shall be well and duly satisfied for their pains and troubles.

At a Council held in New York, on the 17th of May, 1672, the following additional orders relative to the government on the Delaware, were promulgated.[1]

That for the better government of the town of New Castle for the future, the said town shall be erected into a corporation by the name of a bailawick, that is to say, it shall be governed by a Bailiff and six assistants, to be at first nominated by the Governor, and at the expiration of a year, four of the six to out, and four others to be chosen in their places,

[1] *Vide* Pa. Arch., Vol. VII.

the Bailiff to continue for a year, and then two to be named to succed, out of whom the Governor will elect one. He is to preside in all the courts of the town and have a double vote. A constable is likewise annually to be chosen by the bench.

The town court shall have power to try all causes of debt or damage to the value of ten pounds, without appeal.

That the English laws, according to the desire of the inhabitants be established both in the town and all plantations upon Delaware River.

That the office of Schout be converted into a sheriffalty and the High Sheriff's power extend both in the corporation and river and that he be annually chosen by two being presented to the Governor, of whom he will nominate and confirm one.

Under this arrangement of the government, Captain Edmund Cantwell was appointed the first High Sheriff, and Peter Alricks, Bailiff or Chief Magistrate, for the town and river.

We have now arrived at the second epoch of this portion of our history.

In the year 1672, the hatred of King Charles II, of England, manifested on every occasion against the Holland nation, and the ambition of Louis the XIV of France, led to a declaration of war against the United Belgic Provinces, by the allied powers of France and England.

Notification of the fact that war had been declared was given to the English colonies and territories in America; but, during the first months of its existence, although the conflict waged fiercely, no serious trouble from it was experienced here. But with the summer of the following year, 1673, matters assumed a different phase. Confronted upon the one hand by the land forces of France, and harassed on the other by England's powerful fleet, the Dutch at home were in a critical position, but not so abroad. Their fleet, under the young Admiral, Cornelius Evertsen, was making sad havoc with the English and French marine.

After committing depredations at many other points, Admiral Evertsen, with his squadron of ships, appeared before New York, on the 30th of July, and demanded its immediate surrender. No defence was attempted, and Fort James was delivered up, without a shot being fired by its commander, Captain John Manning, who, for this deed, was afterwards charged with treachery, and was sentenced, by a court martial, to have his "sword broken over his head in public, before the city hall, and himself rendered incapable of wearing a sword and of serving his Majesty for the future, in any public trust in the government."[1]

Evertsen, with whom was associated in this expedition, apparently with an equal authority, Jacob Benckes, immediately summoned before him the Magistrates and Constables of New York and dependencies, and administered to them the oath of allegiance to the States-General and the Prince of Orange.

By these two commanders, who styled themselves "The honorable and awful Council of War, for their High Mightinesses, the States-General of

[1] Smith's Hist. New Jersey.

the United Netherlands and his Serene Highness, the Prince of Orange." Anthony Colve, captain of a company of foot, in the States-General's service, was commissioned, on the 12th of August, at Fort James—now called Fort William Hendrick—to be Governer General of "New Netherlands, with all its appendencies."

Governor Lovelace received orders to leave the country, but was subsequently permitted to remain, for the time being, to make preparations to go to England, which he did shortly after.

Peter Alricks, Bailiff General of New Castle and the Delaware, lost no time in paying his respects to the new government. As a reward for the zeal manifested by him, he was appointed Sheriff or Commandant of the South river by Colve, on the 19th of September. The following instructions were given to him and the Magistrates.[1]

Art. 1.—The Sheriff and Magistrates shall, each in his quality, take care that the Reformed Christian Religion be maintained in conformity to the Synod of Dordrecht without permitting any other sects attempting anything contrary thereto.

2.—The Sheriff shall be present, as often as possible, at all the meetings and preside over the same; but should he act for himself as party, or in behalf of the rights of the Lords Patroons of Justice, he shall, in such case, rise from his seat and leave the Bench and in that event he shall not have any advisory much less a concluding vote, but the oldest Schepen shall, then, preside in his place.

3.—All cases relating to the Police, Security and Peace of the Inhabitants; also to Justice between man and man, shall be finally determined by the Magistrates of each of the aforesaid villages, to the amount of, and under sixty florins, Beaver, without appeal: In case the sum be larger the aggrieved party may appeal to the meeting of the Sheriff and Councillors delegated from the villages subject to his jurisdiction, for which purpose one person shall be annually appointed from each village who shall assemble in the most convenient place to be selected by them, and who shall have power to pronounce final judgment to the amount of fl. 240 Beavers and thereunder. But in all cases exceeding that sum each one shall be entitled to an appeal to the Governor General and Council here.

4.—In case of inequality of votes, the minority shall submit to the majority; but those who are of a contrary opinion may have it recorded in the minutes but not divulge it without the meeting on pain of arbitrary correction.

5.—Whenever any cases occur in the meeting in which any of the Magistrates are interested, such Magistrate shall, in that instance, rise and absent himself, as is hereinbefore stated, in the 2d article, of the Sheriff.

6.—All inhabitants of the abovenamed villages shall be citable before said Sheriff and Schepens or their delegated Councillors who shall hold their meetings and courts as often as they shall consider requisite.

7.—All criminal offences shall be referred to the Governor General and Council, on condition that the Sheriff be obliged to apprehend the offenders, to seize and detain them and to convey them as prisoners under proper safeguard to the Chief Magistrate with good and correct informations for or against the offenders.

8.—Smaller offences, such as quarrels, abusive words, threats, fisticuffs

[1] *Vide* Pa. Arch., Vol. V.

and such like, are left to the jurisdiction of the Magistrates of each particular village.

9.—The Sheriff and Schepens shall have power to conclude on some ordinances for the welfare and peace of the inhabitants of their district, such as laying out highways, setting off lands and gardens and in like manner what appertains to agriculture, observance of the Sabbath, erecting churches, school-houses or similar public works. *Item*, against fighting and wrestling and such petty offences, provided such ordinances are not contrary but as far as is possible, conformable to the laws of our Fatherland and the Statutes of this Province; and, therefore, all orders of any importance shall, before publication, be presented to the Chief Magistrate, and his approval thereof requested.

10.—The said Sheriff and Schepens shall be bound strictly to observe and cause to be observed the Placards and Ordinances which shall be enacted and published by the supreme authority, and not suffer anything to be done against them, but cause the transgressors therein to be proceeded against according to the tenor thereof; and further, promptly execute such orders as the Governor General shall send them from time to time.

11.—The Sheriff and Schepens shall be also obliged to acknowledge as their Sovereign Rulers, their High Mightinesses the Lord States-General of the United Netherlands and his Serene Highness the Lord Prince of Orange, and to maintain their sovereign jurisdiction, right and domain over this country.

12.—The selection of all inferior officers and servants in the employ of the Sheriff and of the Schepens, the Secretary alone excepted, shall be made and confirmed by themselves.

13.—The Sheriff shall, by himself or deputies execute all the Magistrates' judgments and not discharge any one except by advice of the Court; he shall also take good care that the places under his charge shall be cleansed of all mobs, gamblers, whore-houses, and such like impurities.

14.—The Sheriff shall receive the half of all civil fines accruing during his term of office together with one-third part of what belongs to the respective villages from criminal cases; but he shall neither directly nor indirectly receive any presents forbidden by law.

15.—Towards the time of election, the Sheriff and Schepens shall nominate as Schepens a double number of the best qualified, the honestest, most intelligent and wealthiest inhabitants, exclusively of the Reformed Christian Religion, or at least well affected thereunto, to be presented to the Governor, who shall then make his election therefrom with continuation of some of the old ones in case his Honor may deem it necessary.

Dated at Fort Willem Hendrick, the first of October, 1673.

The preceding instruction, as registered word for word, is sent to Schout Peter Aldrichs and the Magistrates of the respective Towns on the South river.

At this time also, three courts of judicature were established on the river, and the inhabitants were ordered to nominate, by "plurality of votes," eight persons as Magistrates for each of the courts, the jurisdictions of which were as follows:

"One Court of Justice for New Amstel, to which provisionally shall resort the inhabitants dwelling on the east and west banks of Kristina kill unto Boomties Hook, with those of Apoquenamins kill inclusive.

"One Court of Justice for the inhabitants of Upland,[1] to which pro-

[1] Chester, Pa.

visionally shall resort the inhabitants both on the East and West banks of Kristina kill and upwards unto the head of the river.

"One Court of Justice for the inhabitants of the Whorekill, to which shall provisionally resort the inhabitants both on the East and West sides of Cape Hinloopen, unto Boomties Hook aforesaid."

As seen, very comprehensive plans were marked out by the Dutch, for the government of the re-conquered Delaware, but this, their last lease of power, was destined to be of very short duration.

On the 9th of February, 1674, a treaty of peace, between England and Holland, was signed at Westminster. By the terms of this peace all conquests made by either side were to be considered *null and void*, and all captured places were to be restored to that nation to which they belonged before capture. Consequently New York and the Delaware reverted to the possession of his Royal Highness, the Duke of York, and were restored to English rule.

In order to prevent any future dispute as to title, a re-confirmation of his former grant was made to the Duke of York, and on the 1st of July, 1674, Major Edmund Androsse was commissioned his Lieutenant and Governor of New York and dependencies, with the understanding that Lieutenant Anthony Brockholls should act for him in case of the former's absence, and should be his successor in the government, should death overtake Androsse.

Governor Andross received possession of Fort James on the 31st of October, and at a meeting of his Council, held two days afterward, steps were taken toward re-organizing the government on the Delaware. It was resolved that the old officers and Magistrates, excepting Peter Alricks, should be continued in office for the time being. Alricks, by his ready submission to the Dutch, and the eager desire manifested by him to serve them, was deemed to have forfeited the right longer to hold office under the English. This feeling against him, however, seems subsequently to have been modified, as he was appointed to several positions of trust.

Captain Edmund Cantwell and William Tom were authorized to take possession of the fort at New Castle, and to see to the preservation of all stores of war at that place, or any part of the river. The former was appointed Sheriff, or Schout, and the latter Secretary, or clerk. Both, in conjunction, were ordered to collect the quit-rents and other duties established by the English, before the coming of the Dutch.

The officers of the government on the Delaware at this time were, therefore, as follows:

Captain EDMUND CANTWELL, Sheriff, or Schout.
WILLIAM TOM, Secretary.

Magistrates for New Castle.	*Magistrates on the River.*
HANS BLOCK,	PETER COCK,
JOHN MOLL,	PETER RAMBO,
FOPPO OUTHOUT,	ISRAEL HELME,
JOSEPH CHEW,	LARS ADRIESEN,
DIRCK ALBERTS.	WOOLLE SWAIN.

The government continued thus constituted until the 23d day of September, 1676, when Cantwell and Tom were relieved, by the appointment of Captain John Collier as Commander on Delaware river and bay, and of Ephriam Hermans as Secretary. The following Magistrates were also commissioned:

For New Castle.	*For the River.*
JOHN MOLL,	PETER COCK,
HENRY WARD,	PETER RAMBO,
WILLIAM TOM,	ISRAEL HELME,
FOPPO OUTHOUT,	LARS ADRIESEN,
JOHN PAUL JACQUETT,	WOOLLE SWAIN,
GERRITT OTTO.	OTTO EARNEST COCK.

As seen, the policy pursued by Governor Lovelace, for the gradual establishment of English regulations and laws upon the Delaware, up to the period of the overthrow of his government by the Dutch, was, after the restoration of the country to the English, adopted and carried out by Governor Androsse, until the time had now arrived for a more radical change in the conduct of affairs in this quarter, and the establishment of a more permanent system of government and administration of law.

It will be remembered that as early as 1668, Captain Carre, Commander on the Delaware, was given instructions to have the "laws of the government, established by his Royal Highness," shown "and frequently communicated to the said Councillors and all others, to the end that being therewith acquainted, the practice of them may also, in convenient time, be established," &c. This "convenient" time was now at hand.

On the 25th of September, 1676, the following ordinance,[1] introducing the Duke of York's laws, and establishing Courts of Justice on the Delaware, was promulgated by Governor Andross:[2]

EDMUND ANDROSS, *Esq. Seigneur of Sauzmarez, Lieut. and Govern^r Gen^l under his Royal Highness, James Duke of Yorke and Albany &c. of all his territories in America.*

Whereas, upon a peticon of the Magistrates and officers of New Castle and Delaware River, Governo^r Lovelace did resolve & in part settle the Establish^t Lawes of this Government and appoint some Magistrates under an English Denominacon accordingly, In the which their having been an obstruction for reason of the late warres & Changes of Government; And findeing now an absolute necessity for y^e well being of the Inhabitants, to make a speedy settlement, to be a generall knowne rule unto them for the future, Vpon mature deliberation and advice of my Councell, I have resolved, and by vertue of the Authority derived unto mee, doe hereby in his Ma^ties Name Order as followeth:

1. That the booke of lawes Establisht by his Royal Highnesse & practiced in New Yorke, Long Island, and Dependencies bee likewise in force, and practiced in this River and Precincts, Except the Constables, Courts,

[1] Pa. Arch., Vol. VII, p. 783.

[2] For text of Duke's Laws in full, see front portion of this book.

County Rates & some other things peculiar to Long Island, and the Militia as now ordered to remaine in y^e^ King, but that a Constable in each place bee yearely chosen for the Preservacon of his Ma^ties^ Peace with all other Power as directed by y^e^ law.

2. That there bee three Courts held in y^e^ several parts of the River & bay as formerly, To witt one in New Castle, one above att Uplands another below at the Whorkil.

3. That the said courts Consist of Justices of the Peace whereof three to make a Coram & to have the Power of a Court of Sessions & decide all matters under twenty pounds without Appeale, in which Court the Oldest Justice to preside, unless otherwise agreed amongst themselves above twenty pounds & for crime Extending to life, Limbo or Banishment to admitt Appeale to the Court of Assizes.

4. That all small matters under the value of five pounds may be determined by the Court without a jury Unless desired by the Partys, as also matters of Equity.

5. That the Court for New Castle bee held once a month to begin the first Tuesday in each Month. And the Court for Uplands & the Whorekill Quarterly, & to begin the second Tuesday of the Month.

6. That all necessary By lawes or Orders (not repugnant to the Lawes of the Government) made by the said Courts, bee of force and binding for the space of one whole year, in the severall places where made, They giveing an Account thereof to the Governo^r^ by the first Convenience, And that noe fines be made or imposed but by Order of Court.

7. That the Severall Courts have power to regulate the Court and Office^rs^ Fees, not to exceed the Rates in the booke of Lawes, nor to bee under halfe the value therein exprest.

8. That there be a high Sheriffe for the Towne of New Castle, the River, and Bay; And that the said high Sheriffe have power to make an Under Sheriffe or Marshall being a fitt person, & for whom hee will bee responsable, to be approved by the Court, But the Sheriffe, to act as in England & according to the now practice on Long Island, to act as a principall officer in the Execution of the Lawe, but not as a Justice of the Peace or Magistrate.

9. That there bee fitting Books provided for the Records, In which all Judiciall Proceedings to be duely and fairly Entred, as also all Publick Orders from the Governo^r^ And the Names of the Magistrates & Office^rs^ Authorized, with the time of their Admission: The said records to bee kept in English, To which all persons concerned may have free Recourse at due or seasonable times.

10. That a fitt person for Clarke when Vacant, be recommended by each Court to the Governo^r^ for his Approbacon in whose hands the said Records to be kept.

11. That all writts, Warrants & Proceedings at Law, shall be in his Ma^ties^ Name. It having been practiced in y^e^ Government ever Since the first writing of the Law booke, And being his Royall Highnesse Speciall pleasure & order.

12. That No Rates bee imposed or Levys of Money Made within the Town of New Castle River or Bay, by any under what denomination soever, without the Approbacon of the Governo^r^ Unless upon extraordinary occasion, in case of necessity, of y^e^ which the Governo^r^ to have a present account.

13. That upon the levy of any Rates, there be a Full Record kept, both of the Receipts and disbursements, which is to be given in the next Gen^ll^ Court there to bee past & then Sent to the Governo^r^ for his Allowance

Untill which not to bee deemed a Sufficient discharge; Whereas by this Regulacon there are no Overseers appointed, nor Constables Courts, but all matters to bee determined by the Justices, I doe therefore recommend the Composure or referring to Arbitracion of as many matters (particularly under the value of five pounds) as may properly be Determined that way: Provided it may bee by the consent of Partyes.

Given under my hand and Seale in New Yorke the 25th day of September in the 28th yeare of his Maties Reigne Annoque Domini 1676.

E. ANDROSSE.

From the caption of the Duke's Book of Lawes, we learn that they "were digested into one volume for the public use of the Territories in America under the Government of his Royall Highness, Collected out of the several laws now in force in his Majesty's American Colonies and Plantations," and that they were first promulgated in March, 1664, at Hempstead, Long Island.[1]

It is not the intention of the writer to here attempt any review of these laws, although many curious and even ridiculous points appear in them. They are published in full in another portion of this book, and will repay a full and careful perusal.

On the 13th of August, 1677, Captain John Collier was relieved, by Governor Androsse, of the command of affairs on the Delaware by the appointment in his place of Captain Christopher Billop as Chief Officer. It seems that Collier incurred the displeasure of the Governor by usurping powers which did not belong to him; upon one occasion, at least, having taken upon himself "to sit as Judge in Courts."

Billop continued as Commander or Chief Officer on the Delaware until the latter part of 1679, when he also was removed for misconduct. If the charges made against him are to be believed, his conduct was of the most lawless character.[2] He was charged with taking possession of the fort, and turning it into a stable, and the court room above into a hay and fodder loft; with debarring the court from sitting in their usual place in the fort; and with making use of the soldiers for his own private purposes.

We have no record of the appointment of any person as successor to Billop in the same capacity.

By the Governor's proclamation introducing the Duke's laws upon the Delaware, three judicial districts upon the river are also established, viz: One at New Castle, one at Upland, and one at the Whorekill.

In the year 1680, a fourth district was established, by a division of the Whorekill. The new district was called St. Jones.

On the 28th of May, 1680, the following commissions to Justices in the several districts on the river were issued by Governor Androsse.[3] It will be noticed that the number of Justices in each district is now five instead of six as formerly.

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[1] Among the town records of Hempstead, Long Island, a copy of these laws is still preserved.—*Vide* Onderdonk's "Annals of Hempstead."

[2] *Vide* Hazard's Annals, p. 451.

[3] Pa. Arch., Vol. V, p. 718.

S^{r} EDMUND ANDROS Kn^{t} &c.

By virtue of the Authority derived unto me I do hereby in his Ma^{ties} Name Constitute Appoint and Authorize you M^{r} John Moll, M^{r} Peter Alricks, M^{r} Gerritt Otto M^{r} Johanes de Haes & M^{r} William Temple to be Justices of the Peace in the Jurisdiction of New-castle in Delaware & Dependences and any three or more of you to be a Court of Juridicature Giving you and every of you full power to Act in the s^{d} Employm^{t} according to Law and the Trust reposed in you of which all Persons are to take Notice and give you that due Respect and Obedience belonging to your Places in the Discharging your Dutys. This Cômission to be of force for the space of One whole Year from the date hereof or till further Order.

Given under my hand and Seal of the Province in New Yorke this 28th day of May in the 23th Yeare of his Majestys Reigne Anôg Domini 1680.

A Cômission of the same date to M^{r} Otto Earnest Cock, M^{r} Israel Helme M^{r} Henry Jones M^{r} Lansa Cock & M^{r} George Browne to be Justices of the Peace in the Jurisdîcôn of the Upland Court or County in Delaware River & Dependences.

A Cômission of the former date to M^{r} Francis Whitwell M^{r} John Hillyard M^{r} Robert Hart & M^{r} Edw^{d} Pack to be Justices of the Peace in the Jurisdicôn of the County of S^{t} Jones in Delâware Bay and Dependences the same to begin from the South side of Duck Creeke so to extend to the North side of Cedar Creeke.

A Cômission of the former date to M^{r} Luke Whatson M^{r} John Roades M^{r} John Kippshaven M^{r} Otto Woolgast and M^{r} William Clarke to be Justices of the Peace at the Whore Kill and Dependences the said Court to begin at the Southside of Cedar Creeke and so to go downwards.

Governor Androsse having determined upon a return to England, commissioned Captain Anthony Brockholls to act as Deputy Governor over New York and dependencies during his absence. Before his departure, however, he informs Captain Brockholls, that the commissions of all Justices and Magistrates will shortly expire, but he signifies his desire, "that the present Justices and Magistrates shall continue in the exercise of their respective functions until further order."[1]

The above mentioned Justices were, therefore, the last officers appointed on the Delaware under the authority of the Duke of York. Before "further order" was received in regard to their terms of office, came, on the 21st of June, 1681, the proclamation of Deputy Governor Brockholls and Council, commanding them "readily to submit and yield all due obedience to" his Royall Highness' letters patent to William Penn, and to the commission of William Markham, Esquire, Deputy of the new proprietary.

[1] Pa. Arch., Vol. V, p. 728.

Seal of Gov. Androse.

CHAPTER V.

THE TRIAL OF THE LONG FINNE.

Upland and the Upland Court.

Near the close of the year 1669, while the conduct of affairs on the Delaware still remained in charge of Captain John Carre, a disturbance, which some writers style "an attempt at rebellion," others, "an insurrection," arose. It was caused by the seditious utterances and doings of one Marcus Jacobson, alias John Binckson, ect. but better known to the people of his day, as the "Long Finne or Swede." Jacobson was an adventurer who imposed himself upon the Swedish community on Delaware, pretending to be a son of Connigsmark, one of the King of Sweden's general officers.

This disturbance is mentioned thus particularly, not that it was in itself of any real importance, either as to its object or its result, but because the civil authorities of the day, prompted by their own fears, and those of the inhabitants, magnified the importance of the movement, and inaugurated such formal proceedings in the premises, as to furnish us with a fair record of the mode of enforcing law and of punishing evil doers, in vogue at that early date, which record, fortunately, has been preserved.

If the Long Finne had any motive for the disturbance which he raised, outside of that which actuates the common vagabond and freebooter, it is likely that it was his intention to cause a general insurrection of the dissatisfied elements of the people, with the ultimate design of overthrowing the English government on the Delaware and re-establishing that of the Swedes. The character of his associates gives color to this theory. His chief follower was Henry Coleman, a Finne, who, we are informed, was a person of consideration and property, all of which he sacrificed to engage in the wild enterprise of Jacobson. A certain clergyman, too, is said to have "played the Trumpeter to the disorder," and even the daughter of the former Swedish governor, Printz—Jeffro Armgart Pappegoya— had been indiscreet enough to intermeddle "in so unworthy a design."

Whether a rebellion for the overthrow of the entire government, or a temporary disturbance to the end that the spiteful intentions of a certain few individuals might be carried out, was aimed at, it matters little, for the movement was promptly nipped in the bud by the arrest and punishment of the ring-leader, Jacobson, the Long Finne; to a consideration of whose trial, and the matters connected therewith, the attention of the reader is invited.

Governor Lovelace, having been informed by letters from Captain Carre, of the conduct of the Long Finne and his associates, issued, on the 2d of August, an order for his arrest, with instructions as to the manner in

which his associates should be treated. In pursuance of this order, the Long Finne was arrested and held in irons, to await further action on the part of the Governor; and all other persons who had been implicated in the plot were bound over to answer for their misdemeanors, and an account was taken of their estates.

This case was of so great magnitude as to require, before final action, the most careful consideration on part of the Governor. Uncertain how to act in the matter, he awaited the arrival of expected advices from England, upon the general conduct of the government. His uncertainty is evinced in his letter to Captain Carre, of the 15th of September,[1] when he writes that all business is waiting "upon that breath that must animate this little body politique of ours, so that what I do recommend unto you now must rather respect the stopping of the spreading of the contagion, that it grow not further, than by any way of amputating or cutting of any member to make the cure more perfect."

When the matter of the insurrection of the Long Finne came before the Governor and Council, a proceeding of an unusual character at once attracts attention.

On the 18th of October, at a meeting of the Council, "upon serious and due consideration had of the insurrection, * * * it is adjudged that the Long Finne deserves to die for the same, yet in regard that many others being concerned with him, in that insurrection, might be involved in the same Premunire if the rigour of the law should be extended, and amongst them divers simple and ignorant people, it is thought fit and ordered that the said Long Finne shall be publicly and severely whipped and stigmatized or branded in the face with the letter R, with an inscription written in great letters and put upon his breast, that he received that punishment for attempted rebellion, after which he be secured until he can be sent and sold to the Barbadoes or some other of those remoter plantations."[2]

It will be observed that by this action of Council, which was both legislative and judicial, sentence is actually pronounced upon the criminal before he has had his trial, for it is not until the 22d of November that a commission was issued, under the hand of the Governor and seal of the colony, to Matthias Nicolls and certain other persons, to go to the Delaware for the trial of the ring-leaders in the insurrection,[3] and on the 6th of December these commissioners held a court at New Castle on the Delaware, for the trial of the Long Finne, after the following form:[4]

Vpon the meeting of the Co^{rt} let a proclamacon bee made by saying, O yes, O yes, O yes, Silence is commanded is the Co^{rt} whilst his Ma^{ties} Commission are sitting vpon paine of imprisonment.

Lett the Commission bee read & the Commission^{rs} called vpon afterwards, if any shall bee absent Let their names bee recorded.

Then let the proclamacon bee made again by O yes, as before, after which say: All manner of persons that have anything to doe at this spe-

[1] Arch., Vol. VII, p. 725. [2] *Ibid*, p. 730. [3] *Ibid*, p. 727. [4] *Ibid*, p. 728.

ciall Co^{rt} held by Commission from the Right Ho^{ble} Francis Lovelace, Esq. Governo^{r} Genr^{ll} vnder his Royall Highness the Duke of York of all his Territories in America draw neare to give yo^{r} attendance, and if any one have any plaint to enter or suite to prosecute let them come forth & they shall be heard.

After this let a jury of twelve good men be empannelled.

Then let the Long Finne prisoner in the Fort bee called for & brought to the Barr.

Vpon which the jury is to be called over & numbered one, two &c. & if the prisoner have no exception against either of them let them bee sworne as directed in the Booke of Laws for Tryall of criminals, and bid to look vpon the prisoner at the Barre.

The forme of oath is as followeth: You do swear by the Everliving God that you will conscientiously try and deliver yo^{r} verdict between o^{r} Soveraigne Lord the King, & the prisoner at the Barre, according to evidence and the laws of the country, so helpe you God & the contents of this booke. Then let the prisoner bee again called vpon and bid to hold up his right hand: viz. John Binckson alias Marcus Coningsmarke alias Coningsmarcus alias Matthew Hincks . . . . Then proceed with the indictment as follows: John Binckson, Thou standest here indicted by the name of John Binckson alias Coningsmarke alias Coningsmarcus alias Matthew Hincks alias etc^{a} for that having not the feare of God before thine eyes but being instigated by the devill vpon or about the 28th day of August in y^{e} 21st year of the Raigne of o^{r} Soveraigne Lord Charles the 2^{d} by the Grace of God of England, Scotland, France and Ireland, King, Defender of the Faith &c. Annoque Domini 1669, at Christina & at severall other times & places before thou didst most wickedly, traitorously, feloniously & maliciously conspire and attempt to invade by force of armes this Government setled vnder the allegiance and protection of His Ma^{tie} & also didst most traitorously solicit and entice divers & threaten others of his Ma^{ties} good subjects to betray their allegiance to his Ma^{ties} the King of England, persuading them to revolt & adhere to a forraign prince, that is to say, to the King of Sweden. In prosecution whereof thou didst appoint and cause to bee held Riotous, Routous & Vnlawful Assemblages, breaking the Peace of o^{r} Sovereign Lord the King, and the laws of this Government in such cases provided. John Binckson &c what hast thou to say for thyself, Art thou guilty of the felony and treason layd to thy charge or not guilty? If hee says not guilty, then ask him, By whom wilt thou be tryde. If hee say by God & his country, say, God send thee a good deliverance.

Then call the witnesses and let them be sworne either to their testimony already given in, or to what they will then declare vpon their oaths.

Vpon which the Jury is to have their charge giving them directing them to find the matter of Fact according to the Evidence, and then let them be called over as they go out to consult upon their verdict in which they must all agree.

When the jury returns to deliver in their verdict to the Co^{rt} let them be called over againe & then ask^{t}: Gent^{n}, Are you agreed upon your verdict in this case, in difference between o^{r} Sovraign Lord the King & the prisoner at the Barr. Vpon their saying yes, aske who shall speake for you. Then the[1] . . . . . bring in their verdict & the . . . . . Then read the verdict and say: Gentlemen, this is y^{r} verdict upon which you are all agreed: upon their saying yes, call that the prisoner bee taken from the barre & secured.

[1] Illegible.

Prejudged guilty, as the tenor of all the instruments connected with his trial proves, the Long Finne was, as a matter of course, convicted of the crime with which he stood charged. Whether his trial was a fair one or not, much of interest attaches to it. In it we have the first record of a cause tried on the Delaware under essentially English rules, with the prisoner formally indicted, and a jury of twelve men, subject to challenge on part of the prisoner, charged to find a verdict in accordance with the evidence.

The sentence, as above indicated, was passed upon the Long Finne, and on the 25th of January, following, he was placed on board the ship "Fort Albany," to be transported and sold at the Barbadoes, in accordance therewith. The principal ones of his accomplices were sentenced to forfeit to his Majesty, the King, one half of their goods and chattels, while a small fine was imposed upon those of less note.

Upland and the Upland Court.

Before closing this portion of our work, brief mention must be made of the town of Upland, afterwards Chester, which is intimately associated with the early settlement of Pennsylvania, and was the first seat of justice within the limits of our present Commonwealth.

Upland was settled by the Swedes, about the year 1645, but we know nothing definite in regard to its importance prior to 1673, when, it will be remembered, that a court of justice was there established by the Dutch, upon the occasion of their re-capture, from the English, of the country on the Delaware.

The probability is, that under the English, prior to this time, the place was one of some importance, and that one of the river courts was held there, is evidenced by the fact that in 1672, a question of land title was referred to "the Court of Upland" for decision.

After the river again came under English jurisdiction, in the year 1674, the Upland court was continued. We have evidence that business was transacted before it, in 1675, and in 1676 we have seen that the Duke of York distinctly designated it as a court in the ordinance establishing his laws on the Delaware.

From the last mentioned date, to the close of the administration of the Duke of York, and the transfer of the territory on the Delaware to William Penn, the records of the Upland court have been preserved.[1]

In regard to the courts on the Delaware, including that at Upland, an able writer says:[2] "These Courts possessed both criminal and civil jurisdiction. In criminal matters their powers were about equal to those of our Courts of Quarter Sessions, while in civil cases, not involving more than £20, the judgment of each Court was final. In cases involving a larger amount, an appeal could be taken to the Court of Assizes of New

[1] Memoirs Hist. Soc. of Penna., Vol. VII.

[2] Dr. George Smith, History of Delaware county.

York, and so of crimes of the higher grades. Parties could demand a trial by jury, but in the Upland Court this privilege was only claimed in three or four instances during the nearly five years that its records have been preserved, and in one of these instances the verdict of the jury was wholly disregarded by the Court. By the 'Duke's laws,' no jury could 'exceed the number seaven, nor be under six, except in speciall causes upon life and death, the Justices shall think fitt to appoint twelve.' This will account for only seven men being empanneled in one of the cases where the jurors' names are given in the record. Except in cases of life and death the *major* part of the jury, when agreed, could give in a verdict, 'the *minor* being concluded by the major without any allowance of any protest by any of them to the contrary.'"

"In Equity matters, the Court of Upland exercised jurisdiction. It also made local regulations, which, in these days, would have required an act of the Legislature. The Justices, either as a court or a board, performed all the duties that are now performed by County Commissioners, Directors of the Poor, and Auditors. The Court granted applications for taking up land, received returns of surveys, and had acknowledments of transfers of real estate between parties made before it. It regulated the affairs of the Church, and exercised a general supervision over the various concerns of the body politic, such as the repairs of highways, the maintenance of fences, the sale of the time of servants, and even to the recording of the ear marks of cattle. Besides the Court, the Sheriff, and Surveyor, the government possessed no agent charged with the performanance of civil duties within the County of Upland."

The following, in regard to the records of the Upland Court, is quoted by the writer above mentioned: "That the forms of proceeding were of a character no less primitive and incongruous than the jurisdiction of the court, partaking rather of the nature of suits before an ordinary Justice of the Peace, than those of a Court of Record. The 'Instructions' directed 'all writts, warrants, and proceedings at Lawe to be in his Majesties name.' A *declaration*, or informal statement of the cause of action seems to have been required, and a rule was adopted directing it to be entered at least one day before the Court met. Although the technical names of actions were used in many cases, such as *actions on the case*, *slander*, &c., no actual division of actions was known, these names having probably been taken from 'y^e^ Lawe Booke,' referred to occasionally. There does not, in fact, seem to have been any clearly drawn distinction between civil and criminal cases; a proceeding exclusively civil in its character, frequently resulting in a judgment, partially, at least, appropriate to a criminal case. In short, the whole method of practice was rather a dispensation of justice, as the ideas of it existed in the heads, and was tempered by the hearts of the Judges, than the administration of any positive law, written or unwritten."

The first court, under the new administration, William Markham Deputy

Governor, was held at Upland, on 15th of September, 1681. All the records of the Upland and Chester Courts, from this date down to the present time, are presesved in the public offices at West Chester.

We conclude this brief and imperfect sketch of the Upland Court, with an extract from its records in the case of William Orian *vs.* John D'Haes, an action on a book account for the sum of 167 guilders:[1]

William Orian Plt
Joh: D'Haes Deft

The names of the Jury.

hans moens
dunk Williams
Xtopher Barnes
Edm: draufton
Peter Jockum
Isacq Sauoy
Jan hendriks
Jonas kien
moens Cock
John Browne
Jan Boelsen
henry hastings

The Plt demands of this deft by acct: the sume of 167 gilders for wch hee Craues Judgemt wth Costs; The deft. produces his acct: wch was by him produced in his action ye Laest march Court agst this Plt whereby he prooves that for part of the acct: wch now this Plt doth bring in is already then given Credit for and denys the Remainder of the Plts acct: The Plt Craueing a Jury, the Jury was Impanneled who brought in their verdict that they allowed ye Plts acct: to ye sume of 159 gilders;

The Court thought fitt to suspend the verdict of ye Jury and the determinacon of this Case till next Court day, att wch tyme both Plt and deft: are to bring their bookes In Court.

The above named twelve men were the first jury known to have been empaneled in Pennsylvania.

[1] Upland Court Records, p. 107—Nov. 12, 1678.

Seal of Duke of York.

Fac-simile of the

PART II.

From the Acquisition of the country by Penn to the close of the Century, 1681—1700.

CHAPTER I.

Penn's Arrival, and His First Assembly.

The province of Pennsylvania was granted to William Penn principally for two reasons, which are mentioned, though not fully, in the royal charter. First, on account of the patriotic and religious spirit exhibited by Penn himself, in "a commendable desire to enlarge our English Empire, and promote such useful commodities as may be a benefit to us and our Dominions, as also to reduce the savage natives by gentle and just manners to the love of civil society and Christian religion." Second, to reward, by emoluments to the son, the meritorious services in the past of his father, the Admiral, Sir William Penn, and at the same time, to extinguish a money debt, of no inconsiderable size, due from the Crown for those very services.

Under Cromwell, Admiral Penn did good service for England in the Spanish West Indies, where he had been sent with "a considerable sea and land force." The Island of Jamaica was at that time reduced, and brought under English authority. The services, however, for which King Charles and the Duke of York held him in grateful remembrance were performed later. After the restoration, Admiral Penn became a royalist. He commanded the English fleet under the Duke of York, which, in 1665, obtained a signal victory over the Dutch fleet commanded by Van Opdam. For this service to his country, Admiral Penn was knighted, and justly became a favorite of the King and the Duke.

At the death of Sir William Penn, there was owing him by the Crown a debt of sixteen thousand pounds, which sum of money, though not actually mentioned, was the money consideration understood in the grant of the province of Pennsylvania to Penn.

William Penn became proprietary of his province of Pennsylvania and territories thereto annexed by four several grants:

First—the province of Pennsylvania was granted to Penn, by the charter or patent of King Charles II, bearing date the 4th day of March, 1681. This, the royal charter, as it is generally called, was published by the King on the 2d day of April, 1681, by the following proclamation:[1]

Charles R.

Whereas his Majesty, in consideration of the great merit and faithful Services of Sir William Penn deceast and for divers other good causes him thereunto moving hath been graciously pleased by Letters Patents bearing date the fourth day of March last, to give and grant unto William Penn Esqire Son and Heir of the Said Sir William Penn, All That tract of Land in America Called by the name of Pensilvania as the same is bounded on the East by Delaware River, from twelve miles distance Northwards of New Castle Towne, unto the three and fortieth degree of Northern Latitude, if the said River doth extend soe farr Northwards And if the said River shall not extend soe farr Northward, then by the said River so farr as it doth extend. And from the head of the said River, the Eastern Bounds to bee determined by a Meridian Line to bee drawn from the head of the said River, unto the said Three and Fortieth Degree; the said Province to extend Westward five degrees in Longitude, to be Computed from the said Eastern bounds; and to bee bounded on the North by the beginning of the Three and Fortieth Degree of Northern Latitude; and on the South by a Circle drawn at Twelve miles distance from New Castle Northwards and Westwards unto the beginning of the Fortieth Degree of Northern Latitude and then by a streight Line Westwards, to the limits of Longitude above mentioned. Together with all Powers, Preheminences and Jurisdictions necessary for the Government of the Said Province, as by the Said Letters Patents reference being thereunto had, doth more at large appear. His Ma^tie doth therefore hereby publish and declare His Royal Will and Pleasure that all persons settled or inhabiting within the limits of the said Province doe yield all due obedience to the Said William Penn, his heirs and assignes, as absolute Proprietaries and Governors thereof; as also to the Deputy or Deputies, Agents or Lievtenants lawfully Commissionated by him or them according to the powers and authorities granted by the Said Letters Patents. Wherewith his Ma^tie expects and requires a ready Complyance from all persons whom it may concern, as they tender his Ma^ties displeasure.

Given at the Court at Whitehall the Second day of April in the three and thirtieth year of His Ma^ties Reigne.

By His Ma^ties Command
CONWAY.

To y^e Inhabitants and Planters of Pensilvania in America.
(2 april 1681)

Second—the deed of the Duke of York for the province of Pennsylvania, in the same terms substantially as the royal charter. This deed was given on the 31st day of August, 1682, and was prompted by the foresight of Penn to protect him in the future against any claims of the Duke which might

[1] Copied from original document in Land Office at Harrisburg.

arise. Third, the grant of the Duke of York to Penn, August 24, 1682, of the town of New Castle, otherwise called Delaware, and a district of twelve miles around it. Fourth, the grant of the Duke of York to Penn, on the same day, of a tract of land extending from twelve miles south of New Castle to the Whorekill or Cape Henlopen, divided into the two counties of Kent and Sussex, which, together with the New Castle district, were commonly known by the name of the three lower counties.

Having secured the King's grant, and determined in his mind the plan for the annexation of the lower counties, Penn's next step was to advertise his province, by issuing a lengthy document[1] for the enlightenment of "those of our own or other nations that are inclined to transport themselves or families beyond the seas."

This document comprised a somewhat tedious argument in favor of colonies, followed by a short description of the country; the nature of the intended constitution and laws; the price of land; the character of persons suitable for the undertaking, and the nature and cost of the journey; concluding with an earnest exhortation to all, not to enter into the undertaking rashly or without "an eye to the providence of God in the disposal of themselves."

On the 11th of July, the following "conditions or concessions were agreed upon by William Penn proprietary and governor of the province of Pennsylvania, and those who are the adventurers and purchasers in the same province:"

First. That so soon as it pleaseth God that the above said persons arrive there, a quantity of land or Ground plot shall be laid out for a large Town or City in the most convenient place upon the River for health and navigation; and every purchaser and adventurer shall by lot have so much land therein as will answer to the proportion which he hath bought or taken up upon rent, But it is to be noted that the surveyors shall consider what Roads or Highways will be necessary to the Cities, Towns, or through the lands. Great roads from City to City not to contain less than forty feet in breadth shall be first laid out and declared to be for highways before the Dividend of acres be laid out for the purchaser and the like observation to be had for the streets in the Towns and Cities, that there may be convenient roads and streets preserved not to be encroached upon by any planter or builder that none may build irregularly to the damage of another.—In this custom governs.

Secondly. That the land in the Town be laid out together after the proportion of ten thousand acres of the whole country, that is two hundred acres, if the place will bear it: However that the proportion be by lot and entire so as those that desire to be together, especially those that are by the catalogue laid together, may be so laid together both in the Town & Country.

Thirdly. That when the Country lots are laid out, every purchaser from one thousand to Ten thousand acres or more, not to have above One thousand acres together, unless in three years they plant a family upon every

[1] Hazard's Anns., pp. 505–513.

thousand acres; but that all such as purchase together, lie together; and if as many as comply with this Condition, that the whole be laid out together.

Fourthly. That where any number of purchasers, more or less, whose number of acres amounts to Five or ten thousand acres, desire to sit together in a lot or Township, they shall have their lot or Township cast together, in such places as have convenient Harbours or navigable rivers attending it, if such can be found, and in case any one or more Purchasers plant not according to agreement, in this concession to the prejudice of others of the same Township upon complaint thereof, made to the Governor or his deputy, with assistance they may award (if they see cause) that the complaining purchaser may, paying the survey money, and purchase money, and Interest thereof, be entitled, inrolled and lawfully invested in the lands so not seated.

Fifthly. That the proportion of lands that shall be laid out in the first great Town or City, for every purchaser, shall be, after the proportion of Ten acres, for every Five hundred acres purchased, if the place will allow it.

Sixthly. That notwithstanding there be no mention made in the several Deeds made to the purchasers, yet the said William Penn, does accord and declare, that all Rivers, Rivulets, Woods and Underwoods, Waters, Watercourses, Quarries, Mines and Minerals, (except mines Royal,) shall be freely and fully enjoyed and wholly by the purchasers into whose lot they fall.

Seventhly. That for every Fifty acres that shall be allotted to a servant, at the end of his service, his Quitrent shall be two shilling per annum, and the master or owner of the Servant, when he shall take up the other Fifty acres, his Quitrent shall be Four shillings by the year, or if the master of the servant, (by reason in the Indentures he is so obliged to do,) allot out to the Servant Ffty acres in his own division, the said master shall have on demand allotted him from the Governor, the One hundred acres, at the chief rent of Six shillings per annum.

Eighthly. And for the encouragement of such as are ingenious, and willing to search out Gold and silver mines in this province, it is hereby agreed that they have liberty to bore and dig in any mans property, fully paying the damage done, and in case a Discovery should be made, that the discoverer have One Fifth, the owner of the soil (if not the Discoverer) a Tenth part, the Governor Two fifths, and the rest to the public Treasury, saving to the king the share reserved by patent.

Ninthly. In every hundred thousand acres, the Governor and Proprietary by lot reserveth Ten to himself, which shall lie in but one place.

Tenthly. That every man shall be bound to plant or man so much of his share of Land as shall be set out and surveyed within three years after it is so set out and surveyed, or else it shall be lawful for new comers to be settled thereupon, paying to them their survey money, and they go up higher for their shares.

Eleventhly. There shall be no buying and selling, be it with an Indian, or one among another of any Goods to be exported but what shall be performed in public market, when such place shall be set apart or erected, where they shall pass the public Stamp or Mark. If bad ware and prized as good, or deceitful in proportion or weight, to forfeit the value as if good,

and full weight and proportion to the public Treasury of the Province, whether it be the merchandize of the Indian or that of the Planters.

Twelfthly. And forasmuch as it is usual with the planters to overreach the poor natives of the Country in Trade, by Goods not being good of the kind, or debased with mixtures, with which they are sensibly aggrieved, it is agreed, whatever is sold to the Indians, in consideration of their furs, shall be sold in the market place, and there suffer the test, whether good or bad; if good to pass; if not good, not to be sold for good, that the natives may not be abused nor provoked.

Thirteenthly. That no man shall by any ways or means, in word or deed, affront or wrong any Indian, but he shall incur the same penalty of the Law, as if he had committed it against his fellow planters; and if any Indian shall abuse, in Word or Deed, any planter of this province, that he shall not be his own Judge upon the Indian, but he shall make his complaint to the Governor of the province, or his Lieutenant or Deputy, or some inferior magistrate near him, who shall, to the utmost of his power, take care with the king of the said Indian, that all reasonable Satisfaction be made to the said injured planter.

Fourteenthly. That all differences between the Planters and the natives shall also be ended by Twelve men, that is, by Six planters and Six natives, that so we may live friendly together as much as in us lieth, preventing all occasions of Heart burnings and mischief.

Fifteenthly. That the Indians shall have liberty to do all things relating to improvement of their Ground, and providing sustenance for the families, that any of the planters shall enjoy.

Sixteenthly. That the laws as to Slanders, Drunkenness, Swearing, Cursing, Pride in apparel, Trespasses, Distress, Replevins, Weights and measures, shall be the same as in England, till altered by law in this province.

Seventeenthly. That all shall mark their hogs, sheep and other cattle, and what are not marked within three months after it is in their possession, be it young or old, it shall be forfeited to the Governor, that so people may be compelled to avoid the occasions of much strife between Planters.

Eighteenthly. That in clearing the ground, care be taken to leave One acre of trees for every five acres cleared, especially to preserve oak and mulberries, for silk and shipping.

Nineteenthly. That all ship masters shall give an account of their Countries, Names, Ships, Owners, Freights and Passengers, to an officer to be appointed for that purpose, which shall be registered within Two days after their arrival; and if they shall refuse so to do that then none presume to trade with them, upon forfeiture thereof; and that such masters be looked upon as having an evil intention to the province.

Twentiethly. That no person leave the province without publication being made thereof in the market place, Three weeks before, and a certificate from some Justice of the peace, of his clearness with his neighbours and those he has dealt withal, so far as such an assurance can be attained and given; and if any master of a ship shall contrary hereunto receive, and carry away any person that hath not given that public notice, the said master shall be liable to all debts owing by the said person, so secretly

transported from the province. Lastly, that these are to be added to or corrected by and with the consent of the parties hereunto subscribed.

Sealed and delivered in the presence of

WILLIAM PENN.

William Boelham,
Harbert Springet,
Thomas Prudyard,

Sealed and delivered in the presence of all the proprietors who have hereunto subscribed, except Thomas Farrinborrough and John Goodson, in the presence of

Hugh Chamberlen,
R. Murray,
Harbet Springet,

Humphry South,
Thomas Barker,
Samuel Jobson,
John Joseph Moore,
William Powel,
Richard Davie,
Griffith Jones,
Hugh Lambe,
Thomas Farrinborrough,
John Goodson.

In the meantime, Penn commissioned, on the 10th of April, 1681, his cousin, William Markham, to be Deputy Governor of the Province. Markham's commission, given at Westminster, is as follows:[1]

Whereas the King hath graciously pleased upon divers good considerations to settle upon me and my heirs for ever, by his letters-patent under the great seal of England, dated the fourth of March last, a tract of land in America, by the name of Pennsylvania, lying and bounded as in the said letters-patent is particularly expressed, with ample powers and authorities requisite for the well-governing of the same, to be exercised by me or my deputy. Out of the special regard that I have to the care and fidelity of my cousin, William Markham, I do hereby appoint him my deputy, and fully authorize him in my stead and for my behoof, and for the benefit of the said province to act and perform what may be fully needful to the peace and safety thereof, till I myself shall arrive, or he shall receive further orders; that is to say he has hereby power,

1st. To call a Council, and that to consist of nine, he presiding.

2d. That he does there read my letter to the inhabitants and the King's declaration of subjection; then (or there) take the inhabitants' acknowledgements of my authority and propriety.

3rd. To settle bounds between me and my neighbors; to survey, set out, rent, or sell lands, according to (my) instructions bearing date the 8th of the month called April 1681.

4th. To erect courts, make sheriffs, justices of the peace, and other requisite inferior officers, that right may be done, the peace kept, and all vice punished, without partiality, according to the good laws of England.

5th. To call to his aid, and command the assistance of any of the inhabitants of those provinces, for the legal suppression of tumults or riots, and conviction of the offenders, according to law, and to make or ordain any ordinances, and to do any thing or things that to the peace and safety of the said province he may lawfully do, by the power granted to me in the letters-patent, calling assemblies to make laws only excepted.

Given under my hand and seal this 10th of the month called April 1681.

WILLIAM PENN [SEAL].

Witnesses—HENRY WEST, JOHN WEST.

[1] Quoted from Hazard's Annal's, p. 504. Mr. Hazard found this document in the Secretary of State's office, at Boston, and published it for the first time.

Armed with this commission and letters of introduction, Markham arrives in New York about June 21, 1681, and at the Delaware the 1st of the following month.

By the terms of his commission he was empowered to call a Council, to consist of nine persons, he presiding. The names of the first Council chosen were as follow:

Wᵐ MARKHAM, *President.*

ROBERT WADE,
MORGAN DEWET,
WILLIAM WOODMANSON,
WILLIAM WARNER,
THOMAS FAIRMAN,
JAMES SANDILANDS,
WILLIAM CLAYTON,
OTTO ERNST COCK,
LACEY COCK,
} *Council.*

These took the oath of office on the 3d of August, 1681. The proceedings of their first session were kept secret, and little is known of their action, except that the government of the new province was established, with the capital at Upland, where we find Markham holding court, on the 30th of November, 1681,[1] and on the 25th of July, 1682, purchasing land about the falls of the Delaware, for Penn, from the Indians.[2]

On the 27th of October, 1682, Penn himself arrived in the Delaware, and landed at New Castle.[3] After exhibiting the Duke of York's deeds for New Castle and the adjacent territory, and the two lower counties, he took possession, on the following day, of the town of New Castle.[4]

Placing the government of New Castle and adjacent places, so far as organized, in proper hands, the proprietary arranged the preliminaries for the meeting of his first assembly, at Upland, on the 4th day of December, 1682.

Before attempting any description of the first Assembly of the freemen of Pennsylvania, it is necessary, for a proper understanding of the subject, briefly to refer again to the King's charter, and to make some mention of other initiatory instruments in the government of Penn.

By the provisions of the Royal charter, Penn and his heirs were made absolute proprietaries of the province. The powers granted to the proprietary were comprehensive. He was empowered, in cases of emergency, either by himself, his deputies or magistrates, to "make and constitute fit

[1] Hazard's Ann,, p. 535. [2] *Ibid.*, p. 581. [3] *Ibid.*, p. 596.

[4] Upon the occasion of Penn's taking possession of the fort of New Castle, the following is, in part, the ceremony which was gone through with. The key of the fort was delivered to him, by one of the commissioners, in order that he might "lock upon himself alone, the door, which being opened by him again, we did deliver also unto him one turf, with a twig upon it, a porringer with river water and soil." The ceremony upon the delivery of the two lower counties was the same. *Vide* Hazard's Anns., p. 607.

and wholesome ordinances from time to time," provided that such ordinances did not "take away the right or interest of any person or persons for, or in their life, members, freehold, goods or chattels."

By the assent and approbation, and with the advice of the freemen of the country, or their representatives in Assembly, he could enact such laws as should appertain to the peace and safety of the province; but all laws, when enacted, were to be published under the seal of the proprietary or his deputies and within five years, were to be transmitted to the King, and by him delivered to the Privy Council, and if not repealed within six months thereafter, to remain in full force and virtue. The right to repeal laws was reserved to the crown.

It will be seen that the failure of the proprietary and his deputies to observe the provision of the charter which required all laws to be published, under his or their seal, led to serious trouble in the future.

The proprietary was further empowered to appoint all judges, justices, magistrates, and other officers whatsoever, to erect courts for the administration of justice, and to pardon all manner of criminals, (murderers and traitors only excepted).

The history of subsequent events shows that after the revolution in England, these chartered privileges of Penn's were temporarily suspended by King William, the laws of the province totally abrogated, and a Deputy Governor over it appointed by the Crown.[1]

Whether the act of King William was predicated upon a distrust or suspicion of Penn, because of his relations to King James, for, as some assert[1] Penn was suspected of being a Papist and a Jesuit, in the disguise of a Quaker; or whether it was a legitimate consequence of the unsatisfactory conduct of affairs in the province, during the first decade of Penn's administration, we will not undertake to say.

The first charter, or "Frame of Government," of the new province, together with certain "laws agreed upon in England," were published by Penn, in England, on the 5th of May, 1682.

This charter, and the laws accompanying it, were made subject to the approval of the first Provincial Council held in the province. The first Assembly, which met at Upland (Chester), took action upon these laws, or "printed constitution," so styled. There is no record of the final action of the Assembly, in their regard, but references to them in the future are of such a character as to prove their confirmation.

The First Assembly.

On the 18th day of November, 1682, the Proprietary issued his writs to the Sheriffs of the respective counties, requiring them "to summon all freeholders to meet on the 20th instant, and elect, out of themselves, *seven* persons of most note for wisdom, sobriety, and integrity, to serve

[1] Benjamin Fletcher, 1693. [2] Douglas Hist. North. Amer., Vol. II., p. 307.

as their deputies and representatives *in General Assembly*, to be held at Upland, in Pennsylvania, December 6th (4th?) next."[1]

This, then, was the proclamation of the first election held by the freemen of Pennsylvania. No members of Provincial Council were chosen, nor was the Council organized until the 10th day of March, the year following. Seven persons from each county were ordered to be elected as representatives to an Assembly, or "General Assembly," as it is termed in the writs.

That in this, their first exercise of the elective franchise, the freemen acted with due discrimination and made good selections is apparent, for, among the few names preserved to us of members of the first Assembly, are those of some individuals who became distinguished, not only as law-makers, but also as zealous, stubborn supporters of their rights as such; several of them afterwards filling the important offices of Judges and Justices.

The Assembly met at Chester upon the day appointed, December 4, and chose Nicholas More, of Philadelphia county, president of the "Free Society of Traders,"[2] to be their chairman.

The first regular business, after the election of chairman, was the appointment of the following committees:[3]

Elections and Privileges.
CHRISTOPHER TAYLOR, Bucks,
NICHOLAS MORE, Philadelphia,
FRANCIS WHITEWELL, Kent,
JOHN SYMCOCK, Chester,
WILLIAM CLARK, Sussex.

"*Committee of Foresight*," *for Preparation of Provincial Bills.*

JOHN SYMCOCK, Chester,
WILLIAM CLARK, Sussex,
LUKE WATSON, Sussex,
CHRISTOPHER TAYLOR, Bucks,
GRIFFITH JONES, Philadelphia,
NICHOLAS MORE, Philadelphia, chairman.

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[1] Hazard's Ann., p. 603—where it is claimed, (in a side note,) that these writs were issued "to call a court at New Castle, on 20th," and also, (in a foot note,) that the form of the writ for Bucks county can be found in Proud's History of Penna., Vol. I. This is a slight error. The form of writ on page 234, Vol. I, of Proud, was for an election of *twelve* persons, to serve as members of a Provincial Council, to be held at Philadelphia, on the 10th of March, 1683, and the twelve persons elected from each county, at this time, were, upon petition, afterwards allowed to represent the counties in both the Council and the Assembly of 1683; three members for the Council and nine for the Assembly. *Vide* Col. Rec., Vol. I, p. 2.

[2] A trading company chartered by Penn: Doctor Nicholas More, president; John Simcock, vice president, and James Claypole, treasurer. *Vide* Hazard's Ann., p. 576.

[3] Votes of Assembly, Vol. I, p. 1, *et cetera*, for additional proceedings.

Justice and Grievances.

GRIFFITH JONES, Philadelphia,
LUKE WATSON, Sussex,
WILLIAM SAMPLE, New Castle,
WILLIAM YARDLEY, Bucks,
THOMAS BRASSY, Chester,
JOHN BRIGGS, Kent.

Thomas Holmes, of Philadelphia; William Clark, of Sussex; Thomas Winn, of Philadelphia; and Edward Southrin, of Sussex, were selected to wait on the Governor, and "humbly desire him to honor the House with a transmission of his constitutes."

Our object in giving these names is, principally, to show who were members of this Assembly, so far as the record will prove the same. No other names are mentioned in the minutes, excepting those of Ralph Withers, residence unknown, and John Moll, of New Castle. The first mentioned asks leave of absence, and the other figures in a contested election case.

As will be observed, but fifteen out of the forty-two ordered to be chosen, are mentioned.

From the exalted estimate that we are wont to place upon the conduct our forefathers, the presumption certainly is, that at their first election of Assemblymen, no "undue influences" would have been invoked to accomplish the return of any person not properly chosen. Our presumption is filial, but it is false as well, for we find that Edmund Cantwell, the Sheriff of New Castle, at this election, had arrogated to himself one, at least, of the political rights of latter day statesmen, namely, the "undue electing a member to serve in Assembly from that county."

For this conduct, he is promptly taken to task by the Assembly; an investigation is ordered; testimony *aliunde* is received, and Abraham Mann, the sitting member, is deposed and John Moll, contestant, admitted by a *unanimous* vote.

The report of the Committee on Privileges and Elections, together with the action of the House, on this case, follow: "That Abraham Mann and his party had made some illegal procedure the day of election, at New Castle, that he might be elected a member of this House; several witnesses having been heard and examined on both sides, the committee adjudged John Moll to be duly elected."

The question then being put, "whether Abraham Mann or John Moll was duly elected, it was carried in the affirmative, for John Moll. *Nemine contradicente.*"

Rules of the House.

After disposing of the contested election case, the House proceeded to adopt rules for its government, mainly as follows:

1st. That any member offending in any manner, shall be brought before the bar of the House, and for the first offense be reproved only; for the

second, reproved, and fined twelve pence; and so gradually for every offense, provided that the fine shall not exceed ten shillings.

2nd. That the House shall be permitted to resolve itself into a "grand committee," and when so resolved, the Speaker shall leave the chair, and the members shall immediately proceed to the election of a chairman, "who shall be for that time promoted to the chair by the commtttee, to whom every one shall direct his speech, as unto the Speaker; and as soon as the matter in debate is agreed on, the chairman shall return to his usual place, and the Speaker re-assume the chair; then the chairman of the Grand Committee shall make report to the House, and leave it in writing with the Clerk." The grand committee shall never adjourn without the consent of the House, and "no other Committee shall determine the right or property of the subject without leave from the House."

3rd. That no private committee shall alter a question agreed upon amongst themselves without consent of the whole House, and that committee always naming in their report what committee they came from.

4th. That any member of the House shall have access into any committee, *except committees of Secrecy.*

5th. That any member may be added to any committee at that committee's request, in cases where his evidence or the like is desired.

6th. That no member of Assembly shall "go on a journey," during the session, without leave of the Speaker.

7th. That no proposal "shall be put to the question before seconded or thirded," which having been done, the House shall resolve itself into a grand committee, and may debate or discourse upon the matter propounded.

8th. "That any member of the House may have privilege to make an addition to any proposal, excepting against any part as at the present stated."

9th. That for the proper conduct of the business of the House, "all questions are to pass, either in the negative or affirmative."

10th. That if any member shall presume to prevert the sense of any question decided by the House, the one so offending "shall be *put out* of the House."

11th. That "on diversity of votes arising in the House," two members shall be chosen to decide "which party carried by the major vote."

12th. That when the votes of the House are equal, the Speaker shall have "the casting vote."

13th. That "if a matter be in debate, and the question arise; Whether the House shall proceed therein this time or not, upon division the No's (shall) go out; if for adjournment, the Yeas."

14th. That no member shall speak upon a question more than once before and once after it is put. No member's name shall be mentioned in debate; no personalities shall be indulged in; and "superfluous and tedious speeches may be stopped by the Speaker."

15th. That the Speaker may have liberty in his speech, without interruption from any member; and members, when addressing him, shall rise in their places.

16th. That any member may offer any bill, public or private, tending to the public good, except in case of levying taxes.

17th. That any law, statute, or ordinance, constituted by a committee, shall not be of force except established by the whole house.

In addition to these rules, in order to secure a proper and systematic method of presenting bills, a "Charter of Order" was adopted in these words:

"That bills at committees be considered by parts, the preamble last considered; the bills not to be blotted, but mended in other papers, and the amendments to be put to the question and voted singly. Bills to be without razures or interlineations, and the Clerk to read the bill, then deliver it to the Speaker, who, standing up with the bill in his hand, reads the title, and declares it to be the first reading of that bill, and no member to speak to it till a second reading, unless to cast it out. If exceptions to a bill be not mendable at the table, then committed; but no bill without exceptions committed. If not committed or rejected, then engrossed. He that is against the body of a bill shall not be of a committee about that bill; no private or personable bills to brought in without leave; public bills, the matter to be opened before brought into the House."

"No bill to be brought in to repeal a law, without leave. Bills amended to be engrossed, but first in a full House the titles to be endorsed on the back of the bill."

There is much in a consideration of these rules of order, adopted by the first legislators who ever assembled in Pennsylvania, to attract attention and interest. They are at once, fair and unfair, ridiculous, dignified, and, withal, orderly in every particular. Members were allowed many privileges, but on the other hand were held in check by many wholesome restrictions.

With rare exceptions, they were guaranteed free access to the meetings of the several committees, thereby acquiring a full knowledge of the preliminary considerations of measures; but sitting as members of committees, and having once taken action upon a bill, that action could not be reversed without the consent of the House; nor could any member who had proven himself an opponent to a bill, at its consideration in the House, be privileged to sit upon any committee to which that bill, upon amendment, had been referred.

In their conduct in the meetings of Assembly, members were required to be decorous and dignified; no member was permitted to interrupt the Speaker in his discourse, or at any time to address him without rising in his place; nor could he absent himself from the meeting without the permission of that officer.

The import of the two rules, intended to prevent disorder, which de-

termined that on questions of postponement, "the No's shall go out," and of adjournment, "the Yea's," and that the member who "perverts the sense" of any question already settled by the House, shall be "put out of the House," will no doubt wonderfully shock the sense of decorum of the modern legislator; while that rule which declared that "*all* questions are to *pass*, either in the negative or affirmative," will strike him as most ridiculous.

The measure of discretion vested in the Speaker to put a stop to the "superfluous" talk of members, was a wholesome provision then, and would undoubtedly prove an economical one now.

The "Charter of Order," marking the method of procedure in the passage of bills, was drawn with commendable care, and with a full knowledge of the importance of the work of legislation. In the amendment of bills, blotting or interlining the original papers was prohibited. The committing of bills to committees, for the purpose only of disposing of them, was not allowed, none but amended bills could be committed. There was no unnecessary delay from postponements, for all bills had to be at once either passed, amended, and committed, or defeated; and, finally, the closest restrictions were placed upon the admission of private bills, while public ones, tax bills reserved entirely, were carefully scanned before introduction.

On the 6th of December, the Assembly agreed to the Act of Union, annexing "the three lower counties" to the Province, as well as the act naturalizing the inhabitants of those counties.

On the third day of the session, they received from the proprietary copies of the "Printed Laws," and of the "Written Laws or Constitutions. The printed laws to receive the first consideration, the written laws to be taken up afterwards.[1] In the House, upon the introduction of these measures, a debate arose as to the propriety of placing both the printed laws, that is, the "laws agreed upon in England," and the written laws proposed by Penn, in force for a time, viz: Until the next sitting of Assembly. It was also debated, in case this should not be done, which of the two should be in force. Upon these propositions, at this time, the Assembly seemed to have reached no definite conclusion; but both the printed and the written laws were subsequently considered, and undoubtedly passed, the printed laws, at least, substantially as they came from the Governor. During their consideration, objection was made to the Thirty-ninth Chapter, which provides that no alteration of any of these laws, should be at any time made, without the consent of the Governor, his heirs or assigns, and six parts of seven of the freemen met in Council and Assembly. It was proposed by the Speaker that the sentence "six parts of seven" should be erased, and so remain until the next session of Assembly, and it was carried in the affirmative, being *generally voted for*.

[1] The "Printed Laws" are the "Laws agreed upon in England;" the "Written Laws, or Constitutions," are the ninety bills proposed to this Assembly by Penn, and out of which were moulded the sixty-one chapters of "the great body of the Laws."

There is no reference to any other objections to these printed laws, except that a debate was entered upon touching the powers granted to the "Free Society of Traders," in the thirty-first article, and a committee of two was appointed to confer with the Governor upon the subject. There is, however, no record of such a conference having been held, nor of the nature of the objections, neither are they material to our object, which is to establish the fact that no essential changes were made in the Printed Laws, which were virtually accepted by the action of the House in proceeding to consider the written Constitution or laws, comprising ninety chapters. Each of these were acted upon separately, and many alterations and amendments were proposed. Of the whole number, one was negatived; seven passed over without vote; four suspended "till next session;" eight "suspended;" seven amended and passed; nine "corrected, with interliniations," and passed, and fifty-seven passed as received from the Governor, making a total number of seventy-one chapters passed out of the ninety submitted. With the acts of Union and Naturalization, this Assembly passed seventy-three laws, or chapters of laws; but of this number, as will be seen, only sixty-one chapters were engrossed in the Council's law book.

One of the chapters sent by the Governor, for the consideration of the Assembly, was a bill proposing to fix the wages of labor. This was discussed at greater length than any other measure proposed. The House resolved itself into a grand committee, and indulged in a running discussion on the merits of the bill. The principal points under discussion were whether all artificers should work at a limited rate, or that particular artificers should have a particular salary, or whether every man should agree with an artificer to his best advantage. The question was by general consent suspended until the session of the next Assembly. As no reference is made to this subject in the minutes of the succeeding Assemblies, it was probably dropped, as something beyond the remedy of legislatve enactment.

As above stated, seventy-one of the ninety laws proposed by the Proprietary to the Assembly, were passed, not including the acts of Union and Naturalization; but let it be distinctly understood that of these seventy-one chapters *passed*, *sixty-one* only, for some reason upon which the records fail to throw any light, were afterwards recognized as laws, and actually engrossed in the "Great Law, or Body of Laws of the Province of Pennsylvania," &c., leaving ten unrecorded, and unaccounted for.

What became of these laws, we will not undertake to say, but the proof that the "Great Law" comprised sixty-one chapters only, is threefold. First, in the first volume of the printed proceedings of Assembly,[1] published by Benjamin Franklin, in the year 1752, in a note at the close of

[1] Votes of Ass. Vol. I., p. 6. Proud also quotes these titles *with the preamble added*, on page 207, Vol. I, of his Hist. of Pa., 1797.

the minutes of the first Assembly, the titles and numbers of the laws passed at this session are given and prefaced as follows:

"The Minutes not expressing the titles of the Chapters of the Constitutions or Laws, passed this sitting, but the numbers only, it is thought proper to give here the titles as we find them *in some old copies*, viz:

1. Of Liberty of Conscience.
2. Qualification of Officers.
3. Against Swearing by God, Christ or Jesus.
4. Against Swearing by any other Thing or Name.
5. Against speaking profanely of God, Christ, Spirit or Scriptures.
6. Against Cursing.
7. Against Defiling the Marriage Bed.
8. Against Incest.
9. Against Sodomy and Bestiality.
10. Against Rape or Ravishment.
11. Against Bigamy.
12. Against Drunkenness.
13. Against Sufferers of Drunkenness.
14. Against Health Drinking.
16. Against Wilful Firing of Houses.
17. Against Breaking into or taking any Thing out of Houses.
18. Lands and goods of Thieves and Felons, &c., liable, &c.
19. Against Forcible Entry.
20. Against Unlawful Assemblies and Riots.
21. Against Assaulting and Menacing of Parents.
22. Against Assaulting and Menacing of Magistrates.
23. Against Assaulting and Menacing of Masters.
24. Against Assault and Battery.
25. Against Duels.
26. Against Riotous Sports and Practices, as Prizes, &c.
27. Against Playing at Cards, Dice, Lotteries, &c.
28. Against Sedition.
29. Against Speaking Slightingly, or abusive Carriage against Magistrates or Officers.
30. Against Reporters, Defamers, and Spreaders of false news.
31. Against Clamorous Persons, Scolders and Railers.
32. Provision for the Poor.
33. Prices of Beer and Ale.
34. Measures and Weights.
35. Names of Days and Months.
36. Witnesses, Lying.
37. Pleadings, Processes and Records to be in English.
38. Trials in Civil and in Criminal matters.
39. Fees and Salaries. Briberies and Extortion.
40. Fines to be Moderate, &c.

41. Numerous Suits avoidable.
42. Arrest of a Person departing the Province, how.
43. Promises, Bargains and Agreements.
44. Charters, Gifts, Grants, Conveyances, Bills, Bonds and Specialties, Deeds, and how soon to be recorded.
45. What Wills shall convey lands as well as Chattles.
46. Wills of *Non Compos Mentis* void.
47. Registry for Wills.
48. Registry for Servants, &c.
49. Factors and their Employers.
50. Against Defacers, Corruptors and Embezzlers of Charters, Conveyances and Records, &c.
51. How Lands and Goods shall pay Debts.
52. What Prisoners bailable.
53. Goals and Goalers.
54. Prisons shall be Work-houses.
55. Wrongful Imprisonment.
56. Where the Penalty is either a Sum of Money or Imprisonment, the Magistrate shall inflict which he will.
57. Freemen, who.
58. Elections.
59. No Money or Goods, by Way of Tax, Custom, or Contribution, to be raised or paid but by Law.
60. Laws shall be printed and taught in schools.
61. All other Things not provided for herein, referred to the Governor and Freemen from Time to Time.

Second, an engrossed copy of the laws passed at Upland, on the 7th day of December, 1682, in the handwriting of, and certified to by Patrick Robinson, Secretary of the Province, in 1693, now on file in the Secretary's office, at Harrisburg, contains, under the caption of "The Great Law or Body of the Laws of the Province of Pennsylvania, &c.," sixty-one chapters in full, and sixty-one only, with numbers and titles corresponding in every particular with the above.

Third, the laws engrossed in Secretary Robinson's book are identical with those, which in parts still remain legible in an old and delapidated law book, also in the Secretary's office, believed to be the Provincial Council's "Book of Laws."

Mr. Samuel Hazard, in his Annals of Pennsylvania,[1] a work of incalculable value to the student of Pennsylvania provincial history, gives *sixty-nine* chapters under the caption of the "Great Law, &c.," as passed by the first Assembly at Upland, in 1682. This classification and enumeration, reluctant as we are to say it, is evidently erroneous, as will clearly appear from a comparison of Mr. Hazard's list of laws with Patrick Rob-

[1] Page 619.

inson's law book above referred to, and with the printed list of titles in the first volume of the Votes of Assembly.

In a foot note,[1] Mr. Hazard says, "these laws are recorded in an old book in Secretary's office, at Harrisburg, and also transcribed on a long roll of parchment."

The "old book" is undoubtedly the one above mentioned as the "Council's Book of Laws." The "long roll of parchment," made up of several parts pasted together, is also still in the Secretary's office, and it contains sixty-nine chapters. Finding the greater part of the old book illegible, and ascertaining also, as is the case, that the first five or six laws on the roll are identical with those in the book, with only a slight variation in the numbers, what was more natural than for Mr. Hazard to take the *roll* as the only obtainable record of the laws of 1682, as we believe he did. And just here the error occurred, and following is the proof:

In the minutes of the Provincial Council, for the year 1689, is the following record:[2] The Governor desiring to see the laws, a committee of Council was sent to Thomas Lloyd, Master of the Rolls, for the enrolled laws. They returned with *three parchment rolls*, containing the enrollment of *sixty-nine* laws. These were referred to the Secretary, to compare with the "*Council's Book of Laws.*" The Secretary reported, next day, that he had "examined and compared the rolls of the first sixty laws with the Council's Book of Laws. He found *little agreement*, and that the said rolls, as the Keeper said last sitting of the Council, *were not authentic; so there was no depending on them.*[3]

As soon as the laws were disposed of in the Assembly, the members from the lower counties began to exhibit a desire to go home, inasmuch as it was intimated that they would be required to return within twenty-one days, to attend a second sitting of the Assembly. A debate on the question of adjournment was entered into. This debate the Speaker endeavored "to mitigate." He evidently considered the manifested desire for an adjournment as bordering on an insult to the Governor, and he endeavored, after a divine manner," to instill into the minds of the refractory members an appreciation of the Governor's "condescension."

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[1] Annals, p. 634.

[2] Colonial Records, Vol. I, pp. 276 and 277. (N. B.—Our references to Colonial Records are to the pages of the *second* edition, printed at Philadephia, in 1852, and not to the *first* edition, printed at Harrisburg, in 1838. There is a difference in the pages.

[3] The first disagreement between Mr. Hazard's laws and those copied from Secretary Robinson's book, and published in this work, occurs on pages 620 and 621 of the Annals. In the paragraph which he numbers "2," is merged chapters 2 and 3 of the correct classification; his numbers "3, 4, and 5" are chapters 4, 5, and 6; his numbers "6 and 7," relative to murder, and relative to manslaughter, are not engrossed in Robinson's book, but similar laws were passed in 1683—see Acts of 1683, chaps. 117, 118; his numbers "8, 9, 10, and 11" are chapters 7, 8, 9, and 10; his number "12," relative to fornication, is not engrossed—for a similar law see Acts of 1683, chap. 120; his numbers "13 to 33," both inclusive, are chapters 11 to 31; his number "34," relative to marriages, is not engrossed—for a similar law see Acts of 1683, chap. 133; his number "35," forbidding widows and widowers to marry within one year after the

A committee of two members, however, was appointed to wait upon the Governor, in regard to the adjournment. This "undertaking" proved successful, for the Governor expressed his willingness "that the Assembly be adjourned for *twenty-one days*, which was accordingly done (on December 7,) by order of the Speaker."[1]

If a second sitting of the Assembly was held "in twenty-one days," as ordered, there is not the slightest record of it in existence, and the probability, amounting almost to a certainty, is, that no such meeting was held, or that if one was attempted, that it failed for want of a quorum; for upon the first day of the next recorded session of Assembly, we find[2] that the Speaker, calling that proposed meeting to remembrance, "reproves several members for neglecting to convene at the time appointed when the House last adjourned."

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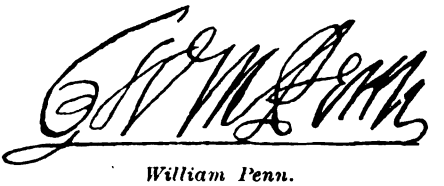
death of husband or wife, is not engrossed, and is not found elsewhere in any shape; his numbers "36 to 38," both inclusive, are chapters 32 to 34; his number "39" is not engrossed—for a similar law see Acts of 1683, chap. 99; his number "40" is chapter 35; his number "41" is not engrossed, and seems to be a paraphrase of chapters 5 and 6 of the "Laws agreed upon in England;" his number "42" is not engrossed among the laws of 1682, but is identical with chap. 66, 1683; his numbers "43 to 45," inclusive, are chapters 36 to 38; his number "47" is chapter 39; his number "46" is chapter 40; his numbers "48 to 53," inclusive, are chapters 41 to 46; his number "54" is not engrossed, see Laws of 1682; his number "55" is chapter 47; his number "56" is not engrossed; his numbers "57 to 61" are chapters 48 to 52; his number "62" is chapter 54; his number "63" has merged in it chapters 53 to 55; his numbers "64 to 69" are chapters 56 to 61. Mr. Hazard has, in fact, classified seventy-one instead of sixty-nine laws, as in two instances, he has merged two laws into one; consequently, he has ten more than are engrossed in the law book, and accidently reaches the entire number enacted by the Assembly.

[1] Votes of Ass., Vol. I, p. 6. [2] *Ibid.*, p. 7.

Seal of Chester county, 1683.

Governors, Deputy Governors, and Presidents of Council, prior to 1700.



William Penn.

William Markham.

Thomas Lloyd.

John Blackwell.

Benjamin Fletcher.

Assistants in the Government.

John Goodsonn.

Samuel Carpenter.

Speakers of Assembly prior to 1700.

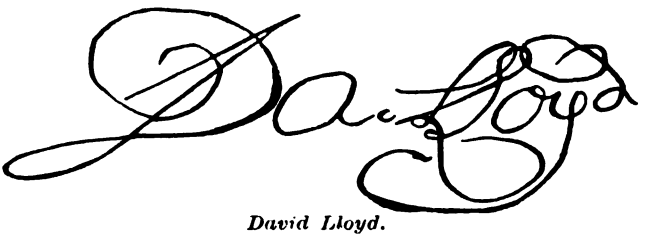
Thomas Wynne.

Nicholas More.

Arthur Cooke.

Joseph Growdon.

William Clarke.



David Lloyd.

Edward Shippen.

John Simcocks.

John Blunston.

Phinehas Pemberton.

CHAPTER II.

THE GENERAL ASSEMBLY OF 1683.

Regular and Special Session.

In accordance with the provisions of article second of the first Frame of Government or Constitution of the Province of Pennsylvania, a general election of the freemen of the said Province was ordered by the Governor, to be held on the 20th day of the 12th month, 1682, (February, 1683,) for the purpose of choosing seventy-two persons of most note for their wisdom, virtue, and ability, to serve as members of a Provincial Council, to meet on "the 10th day of the first month next ensuing (March, 1683.) For the holding of this election, writs were issued to the sheriffs of the respective counties in form as follows:[1]

{ L. S. } William Penn Proprietary and Governor of the province of Pennsylvania, and the territories thereunto belonging:

I do hereby in the King's name, empower and require thee to summon all the freeholders, in thy bailiwick to meet on the 20th of the next month at the falls upon the Delaware river and that they then and there elect and chuse out of themselves twelve persons of most note for wisdom and integrity, to serve as their delegates in the Provincial Council to be held at Philadelphia, the tenth day of the first month next, and that thou there declare to the said freemen that they may all personally appear at an assembly at the place aforesaid according to the contents of my charter of liberties; of which thou art to make me a true and faithful return.

Given at Philadelphia the . . . . day of the 11th month 1682.

WILLIAM PENN.

To:

Richard Noble High Sheriff of the county of Bucks; and the other five sheriffs likewise for their several counties.[2]

At the specified time, namely, the 10th day of March, 1683, the Provincial Council met, and the Sheriffs of the respective counties made, in due form, their returns of the members of Council chosen, being twelve from each county.

With their returns, were presented also by the Sheriffs, petitions from the inhabitants in their several bailiwicks, praying that the twelve members returned as Councillors alone might be vested with the power to act

[1] Proud, Vol. I, p. 234.

[2] The Sheriffs were, John Test, (Philadelphia;) Thomas Usher, (Chester;) Edmund Cantwell, (New Castle;) Peter Bowcomb, (Kent;) John Vines, (Sussex.)

as both Councillors and Assemblymen, three for Councillors, and nine for Assemblymen. Following is the petition presented by the inhabitants of Chester county on this subject:[1]

To William Penn proprietary and governor of the province of Pennsylvania and territories thereof—The petition of the freeholders of the County of Chester respectfully showeth, That in obedience to the writ sent to our Sheriff we have chosen twelve person for our delegates to serve in the provincial Council, but considering that the numbers of the people are yet small, and that we have few fit for or acquainted with such public business, and also that we are unable to support the charge of greater elections and Assemblies. After our humble acknowledgment of the favor intended us therein, we take leave humbly to request that three of the twelve we have chosen may serve as provincial councillors, and the other nine for the Assembly, which provincial Councillors are John Symcock, for three years, Ralph Withers for two years, and William Clayton for one year, leaving it to thee to increase the number, as occasion shall serve, hereafter.

Signed JAMES BROWN, &c.

After the reading of these petitions in Provincial Council, the Frame of Government was ordered also to be read. That instrument undoubtedly required a greater number than were now returned to serve in the Council and Assembly, but its provisions were left to be construed and confirmed by the Governor, his heirs and assigns, and the freemen of the province in Provincial Council and Assembly met.[2] It was therefore agreed by the Council, that the reasons set forth in the petitions of the inhabitants, why a less number of members had been chosen, were good and valid, and it was determined that the seventy-two members had full power to sit both as Councillors and members of Assembly in the manner designated. It was, however, requested of the Governor, that this alteration of its provisions might not deprive the people of the benefits of the Charter; to which request, the Governor replied, "that they might amend, alter, or add for the public good; and that he was ready to settle such foundations as might be for their happiness, according to the powers vested in him."

The status of the members elect having been thus definitely determined, though at the expense of a violation of Charter at the very outset, the Council and Assembly of 1683 stood, ready for business, constituted as follows:

Provincial Council.

William Penn, Proprietary and Governor.

Capt. William Markham, New Castle,	Ralph Withers, Bucks,
Christopher Taylor, Chester,	John Symcock, Chester,
Thomas Holmes, Philadelphia,	Francis Whitewell, Kent,
Lasse Cock, Philadelphia,	Edmund Cantwell, New Castle,
William Clark, Sussex,	William Clayton, Chester,

[1] Hazard's Annals, p. 608.

[2] Col. Rec., Vol. I, p. 58.

John Hilliard, Kent,
William Haige, Philadelphia,
John Moll, New Castle,
John Roads, Sussex,
William Biles, Bucks,
James Harrison, Bucks,
John Richardson, Kent,
Edward Southrin. Sussex.

Assembly.

Kent.	Bucks.	Chester.
John Briggs,	William Yardley,	John Haskins,
Simon Irons,	Samuel Darke,	Robert Wade,
Thomas Haffold,	Robert Lucas,	George Wood,
John Curtis,	Nicholas Walne,	John Blunston,
Robert Bedwell,	John Wood,	Dennis Rochford,
William Winsmore,	John Clowes,	Thomas Bracy,
John Brinckloe,	Thomas Fitzwater,	John Bezer,
Daniel Brown,	Robert Hall,	John Harding,
Benoni Bishop.	James Boyden.	Joseph Phippes.
Philadelphia.	**New Castle.**	**Sussex.**
John Songhurst,	John Cann,	Luke Watson,
John Hart,	John Darby,	Alexander Draper,
Walter King,	Valentine Hollingsworth,	William Futcher,
Andros Binckson,	Gasparus Herman,	Henry Bowman,
John Moon,	John Deboaes,	Alexander Moleston,
Thomas Winn,	James Williams,	John Hill,
Griffith Jones,	William Guest,	Bobert Bracy,
William Warner,	Peter Aldrich,	John Kipshaven,
Swan Swanson.	Heinrich William.	Cornelius Verboof.

On the 12th of March, Council held its second, and the Assembly its first day's session.

The action of Council, in its first day's session, by which the seventy-two members elect had been permitted to constitute both Council and Assembly, seems not to have been universally satisfactory. It was especially distasteful to one Nicholas More, president of the "Free Society of Traders," and a prominent member of the Assembly of '82.[1] In regard to it, he is said to have expressed himself freely and forcibly, claiming, in substance, that the Council had acted in a grossly unconstitutional manner, in constituting the Assembly as had been done; vehemently asserting that they had "broken the charter;" that they would be cursed for it in England; for their conduct was of a treasonable character, and the evil effects of it would be visited upon them and their children, and, on account of it they were liable to impeachment in the future. To answer for these rash assertions, More was called before the Governor and the Council, at this, the second day's session, which was entirely consumed in the consideration of the matter. Having plead in his defense that he had rather

[1] Col. Rec., Vol. I, p. 59.

raised the question of illegal action than asserted it, More's conduct was pronounced "unreasonable and imprudent," by the Council, and reprimanding, they dismissed him, with the exhortation not to so offend again in the future. At no distant day, however, this crafty corporation president again appears before Council and Assembly, as a defendant, and this time the charges are of a more serious import.

The Assembly met at Philadelphia, and organized by the choice of Thomas Winn, of Philadelphia, as Speaker, who was confirmed in his position by the Governor and Council.

As already indicated, the first frame of government granted to the province, by its Proprietary, was, in some important particulars, not suited to the present condition of affairs. Serious objections to parts of it were already entertained by the people, and their representatives in the Assembly lost no time in giving expression to these objections, and taking such action as resulted in the adoption of a new frame of government, and a fundamental law, styled the "Act of Settlement."

From the proceedings of this Assembly, we learn[1] that the first objection made to the frame lay in the number of the members of Council and Assembly provided for, namely, seventy-two for the Council, and not to exceed five hundred for the Assembly. It was claimed that "the fewness of the people, their inability in estate, and unskilfullness in matters of government," rendered it impossible for them to serve in so large a Council and Assembly.

A second objection was that the rights of the Assembly, in legislation, were too limited. They already possessed the right to confirm or reject measures proposed by the Governor and Council, but they desired, also, to have the right to originate measures. "A very good proposal was made by a member, that it might be requisite, by way of petition, or otherwise, to move the Governor and Provincial Council, that the House might be allowed the privilege of proposing to them such things as might tend to the benefit of the province."

It having been already virtually agreed by the Governor and Council that the number of members of Council and Assembly should be reduced, both branches having previously been organized in accordance with the popular demand, little difficulty was experienced in having the matter fixed for the future, by an amendment to the charter.

By consent of the Council, a conference was held with the Assembly, on the morning of the second day's session, in regard to the second question raised, viz: The Assembly's right to propose legislation to the Council. This conference resulted in no concessions to the House, but to the guaranteed right of the Council to prepare and promulgate all bills upon which the General Assembly were to take action, was added a proviso, that the proposed bills should not be inconsistent with the powers granted

[1] For the proceedings of this meeting in detail, see Votes of Assembly, Vol. I, p. 7. &c.

by the King's charter. The Assembly seem to have been much impressed by the reception they received at the hands of the Governor, on this occasion, and immediately upon their return from the conference, subscribed an oath of fidelity to him.

The Proprietary, appreciating the force of the people's objections to certain parts of his original constitution, determined to submit to them a new frame of government, as he had full authority, by the King's charter, to do; and also a bill for the settlement, in general, of points of objection to the methods of legislation originally proposed.

On the fourth day of the Assembly's session, "the clerk of the Provincial Council brought a bill into the House, touching a method to be observed in proceedings of the Provincial Council and General Assembly, the time of their sitting, the manner of their establishing of laws, with the titles to be prefixed unto such laws as are by them enacted," &c.

Upon this important measure a lengthy discussion ensued; several "variations" were proposed by both Council and Assembly, and adopted; the bill itself passed finally, on the 19th of March, and was designated a "Bill of Settlement."[1]

By the terms of this important enactment the number of Councillors and Assemblymen desired by the people, was allowed, to all intents and purposes, to be the Provincial Council and General Assembly of the province. Two thirds to be a quorum in extraordinary cases, and one third in ordinary. The Council and Assembly, then already elected, was determined to be legally constituted for that year. Thereafter the Council was to consist of three members, and the Assembly of six, out of each county. This number was subject to future changes at the hands of the Governor, Council, and Assemby, but was never to exceed the limitations of the charter.

The time for holding the annual elections for members of both Houses, was fixed on the 10th of March, and the Council was required to meet the Governor within ten days after election, and the Assembly was to meet "yearly, on the 10th of May."

In regard to the preparing and proposing of bills it was enacted "that the Governor and Provincial Council shall have the power of preparing and proposing to the General Assembly all bills *that they shall jointly assent to*, and think fit to have passed into laws, in said province and territories thereof, *that are not inconsistent with, but according to the powers granted by the King's letters-patent to the Proprietary and Governor aforesaid.*"

By this act, as seen, the Proprietary showed his willingness to serve the people, by conceding to them substantially what they asked.

Of this act of settlement, Mr. Hazard, in his Annals, says:[2] It "is without date, but is generally considered as the same date as the act of union, (Chester, 1682,) though it does not appear to be distinctly referred

[1] Col. Rec., Vol. I, p. 62. Votes of Assembly, Vol. I, p. 11. [2] Page 615.

to, unless included in the terms, 'written laws or constitutions.' The object seems to be to provide for certain differences arising from the 'fewness' of the inhabitants, which rendered it impracticable to form so large an Assembly, as at first proposed, by which their acts would otherwise be invalidated."

In this supposition Mr. Hazard is manifestly mistaken; the act of settlement was passed on the 19th of March, 1683.[1]

Having determined the methods of legislation, in a manner satisfactory to the Assembly, the next step of the Governor and Council was to indicate to the Assembly a willingness to accede to such reasonable demands for changes in the fundamental law of the Province, expressed in the frame of government, as would meet the objections of the people, and, at the same time, be no infraction of the Royal charter.

To this end a conference was had, at which the House, in a body, met the Council, in their chamber. The question was then directly put, by the Governor, to the Assembly, "whether they would have the old charter, or a new one?" when it was unanimously desired that there might be a new charter, in which the amendments already, or in future to be agreed upon, might be incorporated.[2] To this the Governor agreed, and thereby won the gratitude of the Assembly; which, upon its return from the conference, immediately appointed a committee "to compose and present to the Governor, a salutation, by way of the House's acknowledgement of his kindness."

A lengthy consideration of the relative merits of the proposed amendments, and the existing provisions of the Constitution, then ensued in the Assembly. The old charter was read and considered carefully, in all its details, so that, its provisions being thoroughly understood, it might "be proposed to the Governor," to remove those which were disadvantageous to the freemen, and, also, that the privileges to be asked for, in the new charter, might be fully understood.

Various changes in the old charter were suggested, and the right of "fishing, fowling, hawking, and hunting, in any creek or part of the river Delaware, with other privileges," &c., were requested.

Two of the committee, who had been appointed by the Assembly to prepare a written message, containing "the thankful acknowledgements"

[1] Relative to this "Act of Settlement," Doctor Benjamin Franklin, in his "Historical Review of the Constitution and Government of Pennsylvania," page 15, says; "At a place called Chester, in December, 1682, the freemen of both the Province and territories were convened; petitions accompanied the Sheriffs' returns, desiring that the twelve persons returned for Council might serve both for Council and Assembly, * * * * That according to these significations and petitions, an act of settlement was drawn and passed." That Franklin should fix the date of the passage of this act in 1682 is surprising, inasmuch as the published "Votes of Assembly," one of the authorities quoted in the text relative to its passage, bear Franklin's own imprint, and were issued in Philadelphia, in 1752, seven years in advance of his "Review," which was printed in London, in 1759.

[2] Col. Rec., Vol. 1, p. 63.

of the House to the Governor, for his kindness, were further authorized to announce to him and the Council that the Assembly had gratefully embraced the offers of the Governor, and were ready to propose what they desired might be inserted in the charter.[1]

In the various conferences held with the Council, relative to the charter, the several propositions of the Assembly were considered at length. A notable objection, made by the Assembly, was to the reservation in the new charter, of the right of the Governor to continue officers appointed by himself, in office during life or good behavior.[2]

At a general conference of Council and Assembly, upon this subject, action was taken as follows:[3]

1st. The question was proposed by the Governor, whether officers should continue for life, which are named by the Governor? Carried in the negative.

2d. Whether the Governor that now is shall choose his officers during his life? Carried in the affirmative.

3d. The question was put, whether the Justices of the Peace, Sheriffs, and Constables should be appointed by the Governor, during his life? Carried in the affirmative.

4th. Question was put, whether the Governor should choose officers during his life, and afterwards, according to charter? Carried in the affirmative.

The following committee was then appointed, to draw up the old charter, with the amendments agreed upon, added:

Of the Council.	*Of the Assembly.*
John Moll, of New Castle,	James Williams, of New Castle,
Francis Whitewell, of Kent,	Benoni Bishop, of Kent,
W^m^ Clark, of Sussex,	Luke Watson, of Sussex,
Jas. Harrison, of Bucks,	Thomas Fitzwater, of Bucks,
W^m^ Clayton, of Chester,	Dennis Rochford, of Chester,
Thomas Holmes, of Philadelphia.	Thomas Winn, of Philadelphia.

Having performed the duty assigned them, this committee so reported to Council; but a demand being made, that the charter should be engrossed entirely in the new, final action upon it was deferred until the committee should present a suitably engrossed copy.

On the morning of the 31st of March, the Assembly were notified that the Governor and the Council would, that day, require a conference with them, at which the charter of the Province "would be openly read," and in the afternoon "the Speaker came down, with the whole House, to hear the charter read, which was so done."[4]

Desirous of offering to the Assembly a final opportunity of asserting their determination in regard to an important matter, after the charter was

[1] Col. Rec., Vol. 1, p. 65.
[2] *Vide* Art. 18, Frame of 1682.
[3] Col. Rec., Vol. 1, p. 69. *Vide* also Votes of Assembly.
[4] Col. Rec., Vol. 1, p. 71. Also "Votes of Assembly."

read, the Governor put the question to them, whether they desired the maximum number of members of the Assembly, which could not be exceeded without violation of charter, to be increased to five hundred, or to remain at two hundred, as already embodied in the new charter? It was unanimously agreed that the number should be two hundred.

The impressive proceedings connected with the signing, sealing, and delivering of the new charter follow in detail:[1]

At the time appointed, (the second month—April 2d), the House waited upon the Governor and Council, in the Council-House. The Clerk of the Council, by order of the Governor, read the charter of the Province, fairly engrossed in Parchment; which done, the Governor solemnly testifies to the General Assembly, that what was inserted in that charter, was solely by him intended for the good and benefit of the freemen of the Province, and prosecuted with much earnestness in his spirit toward God at the time of its composure. This done, he sealed and signed the said charter, and delivered it to the Speaker of the House, (Thomas Winn,) and two other members, who received it in the name of all the freemen of the Province, by signifying an acknowledgment of the Governor's kindness in granting them that charter of (more than was expected) liberty. This done, the said charter was attested by indorsement of the members of Provincial Council and Assembly, subscribing their names, as also the Governor's Secretary, Clerk of the Council, and Clerk of the Assembly, with such of the inhabitants of Philadelphia as were then present. This done, its keeping was recommended to such person, or persons, as were thought most fit to be intrusted with a matter of so great concernment.

The committee who received the new charter were ordered to return the old one, with the hearty thanks of the whole House, "which accordingly they did."

A comparison of the provisions of the old charter with those of the new, shows the following changes:

Old Charter, 1682.	*New Charter, 1683.*
The Council shall consist of seventy-two members—twelve from each county.	The Council shall consist of eighteen members — three from each county.
The Assembly shall consist of not less than two hundred, or more than five hundred persons, and shall meet yearly, on the 20th day of the second month (April.)	The Assembly shall consist of not less than thirty-six persons — six from each county—nor more than two hundred, and shall meet annually, on the 10th of the third month (May.)
The Governor shall have a treble vote in Council	Abolished.
All bills shall be proposed by the Council to the General Assembly,	All bills shall be proposed by the Council to the Assembly, and shall

[1] Col. Rec., Vol. 1, p. 72. Votes, Vol. 1, p. 21.

and shall be published by affixing them to the most noted places in the inhabited parts, 30 days before meeting.	be published by affixing them to the most noted places in the inhabited parts, 20 days before meeting.
The division of the Council into four standing committees.	Abolished.
The House, alone, is styled the "General Assembly."	The Council *and* the House constitute the "General Assembly."

Additional provisions contained in the new charter, and not in the old are:

That the guardian of a minor Governor, appointed as directed by law, shall also have the care and oversight of the estate of the said minor, (as well as the public concerns and affairs of the Province,) and be yearly accountable and responsible for the same to the Provincial Council, to the minor, when of age, or to the next heir, in case of the minor's death, for the said trust.

Aliens' estates shall be allowed to descend to their heirs, as if the said alien had been naturalized.

The privilege of hunting and fishing in all waters within the Province and territories, granted to the inhabitants.

Full and quiet possession of lands to which any had lawful or equitable claims, guaranteed, saving only such rents, and services for the same, as are or customary ought to be reserved to the Governor, his heirs or assigns.

At this important session of the General Assembly, which continued about twenty days, eighty-one of the bills prepared and promulgated by the Council, were passed by the House, and became laws.[1]

The more important of these were prepared by the following committees of the Council:[2]

The bills relative to Prisons, Sowing of Hemp and Flax, Runaways, Passes, Selling of Servants, Destroying Wolves, and Raising Money, &c., were prepared by James Harrison, Christopher Taylor, John Moll, Ralph Withers, and Edmund Cantwell.

Relative to the Burning of Woods and Marshes, Marking of Cattle, Bounds and Fences, &c., by William Clayton, William Haige, William Biles, John Richardson, Thomas Holmes, and Lasse Cock.

Relative to Fees of Officers, &c., by William Clark and John Moll.

Relative to Rules of County Courts, by John Symcock, William Clark, and Edmund Cantwell.

Relative to the Jurisdiction of Courts in Criminal Causes; Relative to Marriages; Relative to Executors and Administrators, &c., by Thomas Holmes, William Clayton, William Biles, and John Richardson.

Relative to Grand Juries and Binding over to keep the Peace; Relative

[1] *Vide* p. 127, &c., first portion of this book.

[2] Col. Rec., Vol. I, p. 62, 64.

to Servants, &c., by John Harrison, Francis Whitewell, Christopher Taylor, John Hilliard and John Moll.

Of so much importance, in the eyes of the Governor, was that provision of the charter which required that all the laws passed by the General Assembly, should be signed by the Clerk of the Council and the Speaker of the House, and be sealed with the great seal of the Province, that he considered it necessary at this time to call the special attention of the Assembly to the matter, by having that portion of the charter read to them, and a debate arising in the House on the subject, a rule was adopted carrying into effect the above provision of the charter, and it was definitely decided that all laws should be passed under the great seal of the Province, and be indorsed by the Clerk of the Council, as "passed in the Council," and by the Speaker of the House, as "passed in the Assembly."[1] If, therefore, the laws of this and subsequent Assemblies were afterwards declared null and void, because they had not been passed under the great seal of the Province, it does not seem that ignorance of the chartered requirement in the premises can be pleaded in extenuation.

This session of the General Assembly adjourned on the 3d day of April, and the last recorded business of the House was the fining of four of its members for non-attendance upon the sessions of the Assembly.

Shortly after the adjournment of the Assembly, a proposition was made in Council to have an attested copy of the laws printed, but after considerable debate, it was determined that they should not be printed,[2] although a law, passed the previous year, distinctly provided that the laws should be "published and printed, that every person may have a knowledge thereof."[3]

In lieu of printed publication, it was ordered that an attested copy, under the hand of the Secretary, should be transmitted to the President and Clerk of each respective county (Court?) for the people to have recourse to for their information, and that any body desiring the same, could have "copies of that copy," attested by two Justices of the Peace.

At a meeting of the Provincial Council, held on the 22d of August, 1683, it was decided that a special session of the General Assembly should be called, and a proclamation[4] issued for the meeting of the same at Philadelphia on the 24th of October.

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[1] Votes, Vol. 1, p. 21. [2] Col. Rec., Vol. I, p. 74. [3] Laws of 1682, p. 123, *ante*.

[4] Under the charter the Governor had the right to prorogue the Assembly at will, the following is the form of a proclamation issued in 1700:

By the Proprietary and Governour of the Province of Pensilvania and Territories thereunto belonging, with the advice of the Council thereof.

A PROCLAMATION.

Whereas at the rising of the General Assembly of this Province & Territories held at Newcastle in the Eighth & ninth months last I saw cause to prorogue the same to the first day of the second month ensuing; To the end that if any emergency should arise within the year there might be an Assembly ready to meet without the trouble or loss of time that a new election would occasion; For the same reason I have now

Accordingly on the day appointed, the Assembly met and organized, by the appointment of John Songhurst Speaker *pro tem.*, in the absence of Thomas Winn, Speaker.

This special session of the Assembly was a short one, and unimportant outside of the passage of eleven bills, which had been prepared and promulgated by the Council.[1] The session lasted one day.

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thought fit further to prorogue it but no longer time than the first day of the fourth month next following, and it is hereby prorogued to the sd time, Given under my hand and Great Seal at Philadelphia the sixth day of the fifth month in the Thirteenth Year of the Reign of King William and the Twenty first of my Government Annoq Domini 170$\frac{8}{9}$

Wm PENN

Under the Great Seal
Recorded ye 6th 1 mo 170$\frac{8}{9}$

[1] *Vide* Acts of 1683, Special Session, *ante*.

Seal of Philadelphia county, 1683.

CHAPTER III.

THE COUNCILS AND ASSEMBLIES OF 1684 AND 1685.

Penn's Return to England.

Under the provisions of the new Charter just adopted, the original executive powers of the Provincial Council were not materially restricted, and the right of preparing all bills which were to be proposed to the consideration of the General Assembly, still remained as one of its prerogatives. The Council of 1684 met at the time fixed by law, namely, the 20th day of the first month, March, and in complete organization stood as follows:

William Penn, Prop'r. and Governor.

William Welch, New Castle,	Edward Southrin, Sussex,
Francis Whitewell, Kent,	Thos. Lord, Philadelphia,
Luke Watson, Sussex,	John Hilliard, Kent,
William Southersby, Kent,	William Clayton, Chester,
Christopher Taylor, Chester,	Edmund Cantwell, New Castle,
William Haige, Philadelphia,	James Harrison, Bucks.

William Woods, Bucks,
John Symcock, Chester,
Thomas Janney, Bucks,
Thomas Holmes, Philadelphia,
John Cann, New Castle,
William Clark, Sussex.

Having, as its first business, decided upon New Castle as the place of meeting of the next Assembly, the Council forthwith proceeded to the preparation of legislative work for the approaching session. Councillors Holmes, Welch, and Lloyd were appointed a committee, with instructions, carefully to review the subject matter of the old laws, passed at preceeding sessions of Assembly, and to inspect the marginal notes of the same. This committee was also empowered to prepare, under instructions of the Council, such new legislation as was deemed necessary.[1]

An important measure, proposed by the committee on the preparation of bills, was that "constituting another Council for State matters."

What the exact import of this measure was, cannot be determined from the records. It is evident, however, that it met with more opposition than favor in Council, where, upon its consideration, "a great debate" arose, and "at last it fell." A bill was, however, afterwards agreed upon by the

[1] Col. Rec., Vol. I, pp. 97 and 99.

Council, and passed into a law by the Assembly, requiring at least one member of the Provincial Council from each county to be in constant attendance upon the Governor.

Another, and perhaps the most important bill prepared by Council at this sitting, and afterwards passed into a law by the Assembly, was that establishing a Provincial Court, consisting of five Judges, for the trial of all criminals and titles of land, with the additional powers of a Court of Equity, to decide all differences upon appeals from the county courts.

The Assembly of '84 met at New Castle, on the 10th of May. This was the first meeting of Assembly under the provisions of the new charter. By the Sheriffs' returns, the following named persons were declared to be the duly elected members:

Sussex.	New Castle.	Bucks.
John Roads,	James Williams,	William Beakes,
Henry Bowman,	John Darby,	John Clowes,
Hercules Shepperd,	William Grant,	Richard Hough,
Samuel Gray,	Gasparus Herman,	John Otter,
William Emmett,	Abram Mann,	Edmond Bennet.
Henry Stretcher,	John White.	
Philadelphia.	**Chester.**	**Kent.**
Nicholas More,	Joshua Hastings,	John Briggs,
John Songhurst,	Robert Wade,	John Glover,
Francis Fincher,	John Blunston,	John Curtis,
Lasse Cock,	George Meris,	William Sherwood,
Joseph Growden,	Thomas Usher,	James Wells,
John Hart.	Henry Maddock.	William Berry.

The first choice of the Assembly for Speaker was Francis Fincher, of Philadelphia. That gentleman, however, refused the honor, and declined the office, "in a modest way." In a contest for the position, between Nicholas More and Joseph Growden, both also from Philadelphia, the first mentioned was elected. There is no reason assigned, in the meager records, for the refusal of Francis Fincher to serve as Speaker; but at a later day, there is evidence of a bitterness of feeling existing between Fincher and Growden upon the one hand, and Nicholas More on the other, when the fortunes of the latter were on the wane.

In a session of eighteen days' considerable routine work was performed by the Assembly of '84, but nothing worthy of special mention transpired.

The bills, twenty in number, promulgated by the Council, were passed into laws substantially as proposed,[1] and were so declared in a joint session of the two Houses, on the 19th of May.

These laws do not seem to have given universal satisfaction—and what

[1] *Vide* page 166.

laws do? On the contrary, some high in authority were greatly dissatisfied with them, notably Nicholas More, Speaker of the Assembly, who was proven guilty, in Council, from the mouths of several most reputable witnesses, of having indulged in outspoken denunciation of the proposed measures, when they were read over "at Mr. White's," and on another occasion. At Mr. White's, he is charged, by Joseph Growden and Francis Fincher, with having remarked, "hang it, damn them all!" and on the other occasion, in the presence of John Songhurst and John Hart, he declared, that "the proposed laws were cursed laws."[1] Notwithstanding these ebullient signs of a hasty temper and an arbitrary disposition, More stood high in favor with the Government, and secured for himself the first appointment as Chief Justice of the Province. Subsequently, however, as will appear, disgrace, if not punishment, followed his malfeasance in the high office with which he had been entrusted.[2]

Unfortunately for the "nursling colony" of Pennsylvania, the Proprietary was this year compelled to return to England. His dispute with Lord Baltimore, in regard to the title to the lands comprised within the "three lower counties," had assumed such proportions, that it became necessary for Penn himself to give his personal attention to the prosecution of his claim at court. He presided in Council, for the last time before his departure, on the 14th of August. At a meeting of the Council, held on the 18th of August, "a commission from the Governor was read, impowering the Provincial Council to act in the Government in his stead, Thomas Lloyd being President of the same."[3] Thomas Lloyd was also commissioned to keep the great seal.

The first General Assembly, after Penn's departure, met at Philadelphia, on the 11th of May, 1685, and was constituted as follows:

Government, and Provincial Council.

Thomas Lloyd, President.
Thomas Holmes,
William Wood,
John Symcock,
Christopher Taylor,
Thomas Janney,
Phineas Pemberton,
John Barnes,
Peter Alrichs,
John Cann,
John Roads,
William Frampton,
William Southersby,
William Darvall,
Luke Watson,
Edward Greene,
Nicholas Newlin,

Richard Ingelo, Clerk.

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[1] Col. Rec., Vol. I, p. 109.

[2] The judges of the first Provincial Court were Nicholas More, William Welch, William Wood, Robert Turner, and John Eckley.

[3] Col. Rec., Vol. I, p. 119 *et seq.*

Assembly.

Philadelphia.	Chester.	Sussex.
Nicholas More,	John Blunston,	Henry Smith,
Joseph Growden,	George Meris,	William Carter,
Barnaby Wilcox,	John Harding,	Robert Clifton,
Lawrence Cock,	Thomas Usher,	John Hill,
Gunner Rambo,	Francis Stanfield,	Samuel Gray,
Thomas Paschall.	Joshua Ferne.	Richard Law.
Bucks.	**New Castle.**	**Kent.**
William Beakes,	John White,	John Bridges,
Gilbert Wheeler,	Gasparus Herman,	John Curtis,
Henry Baker,	Hendrick Williams,	Daniel Jones,
William Dark,	Abraham Mann,	Peter Groningdyke,
James Dilworth,	Edward Owen, junior,	William Berry,
Henry Paxson.	John Darby.	John Brinckloe.

Prior to the meeting of Assembly, President Lloyd and the new Council, in accordance, to a certain extent, with the existing method of procedure, promulgated a number of bills to be passed upon by the General Assembly.

The committee of Council, to whom the preparation of these bills had been entrusted, consisted of William Frampton, Phineas Pemberton, John Cann, and John Symcock. To what extent and with what results the usual method of procedure was deviated from will appear later.

On the 11th of May, the Council, with the Assembly, sat at Philadelphia.

Before the Council proceeded to any business, in a legislative capacity, Thomas Lloyd, the president, formally announced to the Council the death of King Charles the Second, and the proclaiming of James, Duke of York and Albany, as King of England, &c.

Whereupon, it was unanimously agreed by the Council, that the publication of the accession of King James, and the speech of the King be solemnly read in the presence of the representatives of the freemen of the Province and territories, before the "Gov^{rs} Gate," in the town of Philadelphia, and that a formal "publication of King James the Second should be read in Council by a person especially appointed thereto."

On the next morning, at the ninth hour, Richard Ingelo, Clerk, read the following paper to Council:

PENNSILVANIA:

Wee, the President and Prov^{ll} Councill, accompanied wth the representatives of y^{e} Freemen in Assembly, & Divers Magistrats, Officers, and other Persons of note, doe in Duty, and in Concurrance with our neighbouring Provinces, solemnly Publish and Declare that James, Duke of York and Albany, by the Decease of our Late Sovereign Charles the Second, is now become our Lawfull Liege Lord and King, James the Second of England, Scotland, France, & Ireland; and (amongst others of his Dominions in America) of this Province of Pennsilvania and its Territories KING; To

whom Wee acknowledge faithfull & Constant Obediance, hartily Wishing him a happy Raign, in health, peace & prosperity.

AND SO GOD SAVE THE KING.

Signed by the President and the Council.

Having thus formally proclaimed their allegiance to the new King, the Council, through a committee, announced to the Assembly their readiness to receive proposals from them.

In the Assembly, an organization had been effected on the previous day, by the choice of John White, of New Castle, as Speaker, and John Southworth, as Clerk.

As early as these opening days of the first General Assembly held after the departure of Penn, there were betokenings of those serious troubles between the Assembly and Provincial Council, about their respective powers and privileges, which, during the years of the Proprietary's enforced absence, were the cause of so much grief to him, and almost cost his young government its life.

The first misstep was made by the President and Council, in their endeavor to change the style of the promulgated bills, and their failure properly to publish them.

In the fourteenth article of the charter of 1683, it is provided:

"That the laws so prepared and proposed, as aforesaid, that are assented to by the Assembly, shall be enrolled as laws of this Province and territories thereof, with this style: *By the Governor, with the assent and approbation of the freemen in Provincial Council and Assembly met*, and from henceforth the meetings, sessions, acts, and proceedings of the Governor, Provincial Council, and Assembly, shall be styled and called: *The meetings, sessions, and proceedings of the General Assembly of the Province of Pennsylvania and the territories thereunto belonging.*"[1]

In plain violation of this provision of the charter, the Council had promulgated the bills for this session, under the style of "by the authority of the President and Council," &c. Against this unlawful proceeding the Assembly entered their earnest protest, and refused to consider any of the bills, unless the style of their promulgation was made to conform to charter.

This determination of Assembly the Council found it impossible to withstand. Accordingly, in a committee of conference with the former body, it was agreed, by the Council, that the old style of promulgation should be adopted.[2]

Satisfied with this concession, a majority of the Assemblymen proceeded to the consideration of the bills. One point of objection, however, still remained. By the fifth article of the charter, it was provided:

"That the Governor and Provincial Council shall have the power of preparing and proposing to the Assembly hereafter mentioned, all bills which they shall see needful, and that shall at any time be past into laws, within the said Province and territories thereof, *which bills shall be pub-*

[1] Col. Rec., Vol. I, p. 129.

[2] Votes of Assembly, Vol. I, p. 31. Col. Rec., Vol. I, p. 134.

lished and affixed to the most noted place, in every county of this province and territories thereof, twenty days before the meeting of the Assembly in order to passing them into laws."

During the consideration of the bills in the Assembly, three members, John Hill, Henry Smith, and Samuel Gray, entered their written protest "against all proceedings relating to the promulgated bills, as not being published according to the tenor of the charter"[1] claiming that the action of the conference committee, in afterwards amending the style of the bills, did not legalize them. On the first bill considered there was a tie vote, and John White, the Speaker, having the "casting vote," voted against the bill, because "it had not been promulgated according to charter." The bills considered at this session, being objected to, required the affirmative vote of "six parts of seven of the Assembly," to become laws.

Impeachment of Nicholas More.

Independent of its trouble with the Council, the Assembly was at variance with itself, and the out-croppings of jealousy amongst members led to extreme bitterness of feeling. One contumacious member was actually expelled for a mere trifle, and re-admitted again, the following morning.

The *coup de maitre* of the session, however, was the expulsion and impeachment of Nicholas More; expelled from his seat as a member of the Assembly, and impeached as Chief Justice of the Provincial Court.

More, evidently, possessed too much influence, or we would not find him acting in the dual capacity of legislator and judge. There are evidences of his arrogant and offensive demeanor toward the officers and members of the Assembly, all through the minutes of its proceedings. During the consideration of the bills, he is frequently recorded as abruptly and, sometimes irrelevantly, interrupting the same, by filing protests, such as the following: "I do protest against the fines expressed in the bill relating to Justices." "I am protesting against this bill," &c. This conduct, undoubtedly, brought to a crisis, the intentions of More's enemies, and prompted the early introduction, in the House, of the articles of his impeachment. On the 15th of May, charges were preferred against him, by a member of the Assembly, "for several high crimes and misdemeanors."[2]

These charges were ordered to be read, and More was requested to withdraw from the House whilst this was being done. It was voted by the Assembly to impeach him on each article. John White, (Speaker,) Abraham Mann, John Blunston, Thomas Usher, William Berry, and Samuel Gray were appointed a committee to prosecute the said More before the Council, by impeachment, and the President and Council were requested to remove him from his office of trust in the Province, (Chief Justice,) which action the House considered "the first thing to be insisted on in this proceeding."

The articles of impeachment were as follows:

1st. The said Nich. More Assumeing to himselfe an unlimitted & Ar-

[1] Votes of Assemly, Vol. 1. p. 32. [2] *Ibid.*, p. 33.

bitrary Power beyond the Prescription or Law of this Governmt, hath presumed of his owne Authority, to Send Unlawfull Writts to the Sherriffs, and to ascertain and appoint the Time of y^e^ Prov'll Cirquits without the Direction & Concurrence of y^e^ Provll Councill, whereby the time of their Sessions hath been Antisipated, the Severall Countye being Surprized by the Shortness of their Warning, and thereby being Impossible to give due Sumons according to Law, Either of Jurys, Witnesses, or Persons Concerned, whereby some Persons have been forced to Irregular Tryalls, and Others absolutely denyed Justice.

For which he was voted to be impeached.

2dly. The said Nich. More, Judge, having that high Trust Lodged in him for the Equall Distribution of justice, without respect of Persons, the said Judge Sitting in Judgemt at New Castle, hath presumed to cast out a person from being of a Jury, after y^e^ said Persons was Lawfully attested to y^e^ True Tryall of y^e^ Cause, thereby rending an Innocent & Lawful Person Infamous in the face of the County, by rejecting his attestation after Lawfully Taken, and Depriving the plaintiff of his just Right.

For which he was voted to be impeached.

3dly. The said Nich More, Sitting in judgmt, did in y^e^ towne of New Castle refuse a Verdict brought in by a Lawfull Jury, and by Divers threats & Menaces, and Threatning y^e^ jury with y^e^ fame of Perjury and crim of their Estates, forced y^e^ said Jury to goe out so often, until they had brought a Direct Contrary Verdict to the first, Thereby preventing justice, and wounding the Libertyes of y^e^ free people of this Province and Territories in the Tenderest point of their Privielege, and Violently Usurping over y^e^ Consciences of the Jury.

For which he was voted to be impeached.

4thly. The said Nich. More, although there was noe Lawful sumons according to Law for Partys Concerned to make preparation, did Arbitrarily reject and Cast out the Complaint of Jno. Wooters, in New Castle Court, hereby not only Delaying but denying Justice to him, coming in a Lawfull way to Demand it.

For which it was voted that he should be impeached.

5thly. The said Nich. More assuming to himselfe an Unlimited and unlawful Power, did, Sitting in Judgmt at y^e^ aforesaid Towne of New Castle, wherin two persons stood Charged in a Civil action, it being in its own Nature only Trover & Convertion, and y^e^ pretended Indictmt raised it no higher, notwithstanding the said Moore did give the judgmt of fellony, Comending the Defendent to be Publickly Whipt, & Each to be fined to pay three fould, thereby Tyranizeing over the persons, Estates and reputations of the people of this Province and Territories, Contrary to Law and Reason.

For which it was voted thas he should be impeached.

6thly. The said Nich. More Comanding a Witness to be Examined, did by overawing & greatly Perverting y^e^ Sence of y^e^ Wittnesses, Charge and Condamne the said Wittness to be guilty of Perjury, and to suffer the paines in that Case provided, & by proclamation to be for Ever rendered uncapable of being rectus in Curia in this Governmt, and also fined him, Contrary to Law.

For which it was voted that he should be impeached.

7thly. And Wheras, the Wisdom of the Gencrall Assembly did Conceive the Circular Courts would be their best Expedient for Ending all kind of Differences whatsoever, the said Nich. More, at y^e^ said Towne of New Castle, Commanding the records of y^e^ former Circular Courts to be produced, wch y^e^ said More reading, he did in the Open Court, Censure the

Judgmt of y^e^ preceeding Judges, by Saying their judgmt was not right, thereby Distracting y^e^ People betwixt divers and Contrary Judgmts, and perpetuating Endless & Vexatious Suits.

For which it was voted that he should be impeached.

8thly. The said Nich. More, Sitting in judgmt at Chester, did in a most Ambitious, Insulting, & Arbitrary way, reverse and Impeach the judgmt of y^e^ Justices of y^e^ said County Court, and Publickly affronting the members thereof, although the matter came not regularly before the said Circular Court, thereby drawing the Magistrates into the Contempt of y^e^ people, and Weakening their hands in the administration of justice.

For which it was voted that he should be impeached.

9thly. The said Nich. More being Chosen as aforesaid, to be Judg of y^e^ Circular Court according to law, wch obliges y^e^ said Judges both spring and fall, to goe their Cirquits; and y^e^ said Nich. More assuming to himselfe the power of appointing the Times, as he is the pretended Chief Judg in the Province and the Territories thereof, hath notwithstanding, Declined the two Lower Circuits, to y^e^ great delay of Justice and Breach of his Trust, & Mischief and Inconvenience of y^e^ free people of y^e^ said Lower Countys.

For which it was voted that he should be impeached.

10thly. The said Judg More resolving to put no Bounds to his Violence, Ambition and Oppression, hath, to y^e^ Dishonour of the Govr, and Contempt of y^e^ Governmt, Declared that neither he nor his Actions are accountable to y^e^ Presidt and Provll Councill, by Despiseing and Conteining their Orders & precepts, and Questionning and Denying their Authority, thereby Shrowding & Protecting himselfe in all the aforesaid Violences, to the rendring the Misserys of the Oppressed Intollerable & perpetual, to the Subversion of the most Excellent frame of this Governmt, and the raising himselfe above the reach of justice.

For which it was voted that he should be impeached.

This impeachment at once became the all-absorbing question with both Assembly and Council.

The Assembly's declaration against More was presented to the President and Council on the 15th of May, and that body, with every evidence of fairness, immediately appointed a committee to acquaint the accused with the fact that the Assembly had preferred charges against him to the Council, and that his presence was required in Council, on the following morning, at the seventh hour.

There appears, however, to have been but little desire on part of the President and Council to aid in the prosecution of this impeachment; for although the following morning, as seen, had been fixed for the preliminary hearing of the case, in a conference of the Assembly and Council, and More had been ordered to be present, when the time arrived, he proved delinquent; and when the Assembly desired to meet the Council in the proposed conference on the matter, it was informed that the Council had "other business now upon them."

Objections were also raised by the Council to the articles of impeachment, because they were "without direction to the Council, nor subscribed by the Speaker or any of the Assembly, nor no place mentioned therein."

Meanwhile, More, still defiant and insolent, refused to obey the per-

emptory summons of the Assembly, commanding his presence, evidently depending for protection upon the friendly offices of Council. He had taken refuge in the Governor's house, and there successfully, for a time at least, maintained immunity from arrest.

The patience of Assembly at length becoming exhausted, More was, on the 18th of May, formally expelled from his seat as a member of Assembly.

The failure of the Council to coöperate with the Assembly, rendered it extremely difficult, in other cases, for the last mentioned body to enforce its commands in connection with this unfortunate affair. A notable instance of contempt of its authority is found in the conduct of Patrick Robinson, the Clerk of the Provincial Court. Robinson had been ordered to produce to the Assembly the records of the court, for the use of that body in the trial of More. This he refused to do. Whereupon, the Assembly issued a warrant for his arrest, and ordered the Sheriff to take him into custody. When brought into the House by the Sheriff, Robinson's conduct was childish in the extreme. He is described as "lying all along upon the ground," refusing to answer to the point, and asserting that the Assembly were acting arbitrarily and without authority. When ordered to produce the records of the court, he answered, "that *there was no records;* and after some excuses, he said, *that his minutes of the proceedings of the said courts were written, some in Latin, where one word stood for a sentence, and in unintelligible characters, which no person could read but himself—no, not an angel from heaven!*" When informed by the Assembly, that they would undertake the task of interpreting the records, if he produced them, Robinson answered, that "he would consider of it," at the same time withdrawing toward the door of the Assembly house. When informed that this answer would be taken for a denial, he answered, "*they might take it so, if they would.*"

Subsequently, Robinson, in the presence of the Council, unrebuked, expressed his contempt for the proceeding against More, remarking, that the articles of impeachment were drawn "hob nob at a venture."

For this disrespectful conduct, Robinson was voted by the Assembly, "a public enemy to the Province and territories, and a violator of the privileges of the freemen in Assembly met." At the same time, the Council was called upon to remove Robinson from his office, and a committee, consisting of the Speaker, John White, and two other members, was appointed to acquaint the President and Council with the action of the Assembly in this affair, and to demand satisfaction. As this committee, in discharge of its duties, were proceeding to the Council house, it accidentally met with Robinson, on the street, who said to the Speaker, in a threatening manner, "*Well, John, have a care what you do; I'll have at you, when you are out of the chair.*"

Robinson's conduct was declared by the Council to be "undecent, unallowable, and to be disowned;" but that body resolved, that they could

not legally remove him from office until "convicted of ill fame, and those crimes and misdemeanors" alleged against him.

Robinson was not removed. On the 24th of September, 1685, he still retained his position of Clerk to the Provincial Court, and being sent for by the Council, (who, on account of the declination of the Judges of the Court, were hearing appeals from inferior Courts,) to produce the record of appeals, he appeared, and "gave an account of what appeals he had delivered to the parties concerned." In reply to a request from the Assembly of '86, that Robinson shall be removed, "the Council declared it was not proper nor reasonable to be answered, nor was it signed by any of the Assembly."

As nothing definite had been done by the Council, in the matter of the impeachment of More, when the Assembly had completed its work, and was ready for adjournment, Abraham Mann and John Blunston were appointed to act on behalf of the Assembly, after its adjournment on the 19th May, as prosecutors of the impeachment.

Ten laws were passed during this session of the Assembly.[1] Thirteen bills had been promulgated by the Council, but three, of which the following are the titles, were not passed into laws by the Assembly:

1. Relative to the enrollment of deeds, grants, and conveyances of land in this Province, &c.
2. Excluding attorneys from pleading for reward.
3 Touching the disposal of lands of intestate persons, &c.

On the 2d of June, 1685, Nicholas More was, at last, reluctantly ordered, by the Council, "to desist and cease from further acting in any place of authority or judicature," until the charges against him were either proven or disproven, and here, again, the matter was allowed, by the Council, to rest.

On the 28th of July, George Meris and John Blunston appeared in Council, and demanded, in "the name of the free people," to know whether they had not forgotten themselves, in not bringing Judge More to trial.

On the 16th of September, Blunston and Meris renew their former desires, in behalf of the Assembly, upon which the Council did order this answer to be recorded: "That Nich. More, being, at this time, under a weak and languishing condition, and not under promising hopes of a speedy recovery, so that, at present, they cannot give a certain or definite answer."

Again, in 1686, the Speaker of the new Assembly, in the name of that body, desired to know of the Council why the impeachment of Nicholas More was suspended. The President replied, "that after the promulgated bills were duly considered of and finished, which he did conceive

[1] *Vide* pp. 175, *et seq.*

was first the most proper work for the Assembly, the business of the impeachment should succeed."

Thus, by one excuse and another, was the trial of More intentionally postponed by the President and Council, until it was lost sight of, and finally forgotten, in the more important and perplexing affairs of State, which burden the record of the near future.

Seal of Kent county, 1683.

CHAPTER IV.

THE GENERAL ASSEMBLIES OF 1686 AND 1687.

It will be remembered that the principal cause of disagreement between the Council and Assembly, at the last session of the General Assembly, lay in the fact that the President and Council had promulgated the bills proposed to become laws, in a grossly unconstitutional manner, which infringement of charter, the Assembly had, at that time, successfully resisted.

In plain disregard, or unmindful of the last year's protest of the Assembly, the Council again, in the year 1686, promulgated the proposed legislation for the approaching session, in the same style as before, to wit, in the name of the "President and Freemen in Provincial Council met," &c., and, as might have been anticipated, this second attempted violation of charter was again prolific of trouble between the two branches of the Legislature.

After the admission of the newly elected members, the Council of 1686 were:

Thomas Lloyd, President,
John Barnes,
Robert Turner,
Thomas Janney,
Arthur Cook,
Francis Harrison,
Nicholas Newlin,
John Symcock,
William Southersby,
William Frampton,
Luke Watson,
John Roades,
William Clark,
Phineas Pemberton,
William Darvall,
John Cann,
Peter Alrichs,
William Markham, (Secretary.)

At a session of the Council, held on the 2d day of April, the following bills were read three times, passed, and ordered to be promulgated:[1]

The President and freemen in Prov[ll] Councill Mett, at Philadelphia, the thirtyeth day of y[e] first Month, One Thousand six hundred Eighty Six, have prepared to be published according to Charter, these following Bills, for the notice and Concurrance of the freemen in Assembly to meet the Tenth day of y[e] next Third month, in y[e] Towne of Philadelphia, in the forme and Style of Laws, then and there to be Confirmed, amended or rejected, as the Genrall Assembly shall in their Wisdome See meet:

1. Be it Enacted by the Authority aforesaid, that these following Chap-

[1]Col. Rec., Vol. I, p. 171.

ters and paragraphs be additionall Laws of y^e^ said Province & Territorys thereunto annexed, that is to say; all those Laws made at Chester by y^e^ Assembly, in y^e^ 10^th^ Month, 1682, and at Philadelphia in y^e^ first Month, 1683, and at y^e^ same place in the 8^th^ month 1683, and at New Castle in y^e^ 3^d^ month, 1684, and at Philadelphia y^e^ 3^d^ Month, 1685, shall, and are hereby Continued to Stand and be in full force and Vertue untill y^e^ End of the first Session of y^e^ next Generall Assembly, and afterwards untill the Publication of Other Laws to be past in the next Genall Assembly, be had, made and done, Except such Laws, or part of Laws, as are by any of y^e^ following Laws Explained, Varied or added unto, and that these Bills Ratisfyed by the Genall Assembly, shall Continue in force untill y^e^ publication of Laws in the next Generall Assembly following.

2. Bee it Enacted by y^e^ Authoritye aforesaid, that Every Offender Legally Convicted and fined for the breach of any penall Law, shall forthwith pay his or their fine or penalty, or give Security Speedily to doe it; but in Case it be not paid, or secured to be payd, as above sayd, that then y^e^ Court or Justice who Imposed the fine, shall forthwith, by Warrant directed to y^e^ Sherriff or Constable of y^e^ respective place, cause the same, with Costs that shall arrise thereupon, to be Levyed on y^e^ Goods or Chattells of y^e^ party offending, by distress and Sale, rendring the overplus to the party; but if noe goods Can be found to satisfye such fines, that then the Sheriff or Constable shall take and secure the body of such person til satisfaction be made, and y^t^ y^e^ Sherriff or Constable soe Collecting the said fines, shall make returne to the next County Court, or such Officer as the Gov^r^ and Prov^ll^ Councill shall appoint, to y^e^ End such fines may be distributed according to Law.

3. Whereas y^e^ Law for Deffraying the respective Charge of Each County, Authorise y^e^ County Court to Assess in Open Court y^e^ necessary Charge of y^e^ same, It is Enacted by y^e^ Authority aforesaid, y^t^ the said Courts are hereby further Impowered to Grant their Warr^t^ upon non payment for y^e^ Levying of y^e^ said Assessments by distress and Sale of Goods, rendring y^e^ overpluss to the Owners.

4. Whereas al Charters, Gifts, Grants and Conveyances of Land, and all Bills, Bonds, & other writings, w^ch^ by y^e^ 44 Chapter of Laws made at Upland, were required to be Registred or Inrolled in y^e^ publiq Inrollem^t^ Office, according to y^e^ Mannor, & within y^e^ time there prescribed, under y^e^ penalty of being Voyd in Law, yet notwithstanding, were not brought to y^e^ Inrollem^t^ Office to be accordingly recorded: Now for y^e^ satisfaction of severall purchasers of Lands and Inhabitants within this Province and Territories, who, some of them being under a mistake concerning y^e^ intent of y^e^ said Law, Others under Considerable Icumbrances and a sort of Inconsideratness upon their begann Settlement, have neglected and lapsed y^e^ time, to y^e^ manifest hazard & making Voyd such respective Instruments or writings.

It is hereby Enacted and Declared, by the president and Prov^ll^ Councill, with y^e^ freemen in Assembly Mett, that all such Charters, Gifts, Grants, & Conveyances of Land, and all such Bills, Bonds, Spetialty's tho' they were not Legally Recorded, that they are hereby reputed, and shall be deemed and Stand authentique in Law, and are Indemnified hereby, provided that all such Charters, Gifts, Grants & Conveyances of Land, w^ch^ are or shall be or Come into this Province & Territories, shall be brought to be registred in the Respective Inrollement Office for this Province & Territories, within six months after y^e^ five and twentyeth day of y^e^ next Third Month, otherwise such Charters, Gifts, Grants & Conveyances of Land to be Voyd in Law, any thing in y^e^ said 44 Chapter of

Laws for the making Null such writings & Instruments to y^e^ Contrary notwithstanding.

5. For the a Voyding of to frequent Clamors and manifest Inconveniences w^ch^ usually attend mercenary pleadings in Civill Causes, It is Enacted by y^e^ authority aforesaid, that noe persons shall plead in any Civill Causes of another, in any Court whatsoever within this Province and Territories, before he be Solemnly attested in open Court, that he neither directly nor Indirectly hath in any wise taken or received, or will take or receive to his use or benefit, any reward whatsoever for his soe pleading, under y^e^ penalty of 5lb. if the Contrary be made appear.

The Assembly met at Philadelphia, on the 10th of May. The following members were returned as elected:

Philadelphia.	New Castle.	Kent.
James Claypoole,	John White,	John Brinkloe,
John Songhurst,	John Darby,	John Bradshaw,
Thomas Ducket,	Cornelius Empson,	John Walker,
John Goodson,	James Williams,	William Berry,[1]
Griffith Owen,	Abraham Mann,	Robert Bedwell,[2]
Andrew Bankson.	William Grant.	Richard Wilson.
Chester.	**Bucks.**	**Sussex.**
Robert Wade,	William Yardley,	Henry Bowman,
John Blunston,	Joseph Growden,	Norton Claypoole,
George Maris,	John Otter,	Henry Stretcher,
Barth. Coppock,	William Biles,	John Vines,
Samuel Lewis,	Joshua Hoops,	Albertus Jacobs,
Caleb Pusey.	John Rowland.	Samuel Gray.

John White, of New Castle, was again elected Speaker. John Claypoole was chosen Clerk, and Richard Reynolds, Messenger.

As soon as the Assembly learned of the *ad interim* action of the Council, in regard to the promulgated bills, dissatisfaction was at once manifested on every hand. It was specifically charged upon the President and the Council, that they had knowingly and intentionally violated the charter. The Council, on the other hand, seemed little inclined to make concessions to the Assembly, and still further aggravated the existing inharmonious condition of affairs, by refusing to meet the Assembly, as a whole, in conference, on the proposed legislation, advising that body of its determination to transact all business of this kind by committees only, and these not acting as committees, but as members, in their individual capacity. After the failure of repeated attempts of their committees to secure a general conference with the President and Council, the Assembly formally demanded their chartered rights at the hands of the Council, namely: "That all the privileges of the Assembly might be inviolably maintained, which were, principally, as followeth: Free access to

[1] William Berry did not appear this session.

[2] Robert Bedwell died before the Assembly met.

the Governor and Council, freedom of speech and debate, and liberty of their persons." The Council still delaying definite action, until the day fixed by the charter for the reading the bills had arrived, and there being every prospect of a long and fruitless controversy in regard to the respective rights and privileges of the two bodies, the Assembly resolved upon a final adjournment of the present session on the 18th of May, and immediately, by committee, acquainted the Council of their determination. The Council at once comprehended the necessity, in view of adjournment, of taking some immediate action, in conjunction with the Assembly, to prevent the virtual overthrow of all the existing laws of the Province, which would have inevitably followed, for the Assembly had not passed the bill continuing the old laws. The following minute of Council proceedings will explain the position taken by them:[1]

The Councill seriously weighing & Considering y^e^ great trust wherewith they are in Vested, & unto w^ch^ they are Solemly obliged by y^e^ Express provisoes of y^e^ Great Charter of this Province & Territories, by y^e^ Act of Settlement, and by y^e^ Gov^rs^ and Prop^ors^ Comission, granted unto them under y^e^ Great Seale whereby they are Impowred, more Especially as to y^e^ Executive Capacity in Relation to y^e^ Justice, Peace and Security of our present Constitution, and y^t^ nothing be Continuanced nor allowed of that may Interferr, Hazard, or seem to Introduce a Subvertion of this frame of Governm^t^; and upon y^e^ Debate in Councill Concerning y^e^ Reading y^e^ proposed bills to y^e^ Assembly, it was by y^e^ President put to y^e^ Memb^rs^ of y^e^ board, perticularly whether if y^e^ first bill being a bill of Continuation of y^e^ former Laws, & an Expressive of y^e^ Duration of such bills which are to pass into Laws this Gena^ll^ Assembly, whether if y^e^ said bill should not pass in y^e^ Assembly, any more bills should be Read by y^e^ Clark of y^e^ Councill unto them, & so y^e^ Assembly, by Refusing y^e^ first & passing two or more other bills, The Inhabitants of this Province should be Stript & Left Destitute of such Laws of whose service they have had good Experience, By y^e^ uncertain compensation of such few ones wose use wee are upon Tryall off, & w^ch^ Cannot be supposed of y^t^ Extent to Supply y^e^ Loss of such w^ch^ will Inevitably be Discontinued therby.

The Councill Unanimously & Successively gave their Thoughts and Expressed themselves that upon refusall of y^e^ Assembly's passing of y^e^ bill for y^e^ Continuance of former Laws, that it would not be only advisable but Requisite for this juncture & Present time, That y^e^ Prov^ll^ Clark forbear Reading of y^e^ Promulgated bills in order to propose them to their assent or Dissent. The Preservation of ye Governm^t^ in y^e^ forme wherein it is at present, being more Expressly our Respective Duties, then Exposing y^e^ same by Dubious and Insecure methods to unavoydable mischeiff.

The Council having thus determined, the Assembly was admitted to a conference, at which the troubles between the two bodies were discussed at length, without an understanding being arrived at. It was, however, unanimously agreed, by both Council and Assembly, "that all things relating to the premises should remain in the same state and condition that they are at this present time, until the Governor shall arrive, and the controversy be determined before him."

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[1]Col. Rec., Vol. I, p. 183.

Whereupon, the Assembly, having taken leave of the Council, departed, leaving the proposed legislation, unfinished.

GENERAL ASSEMBLY OF 1687.

President and Council.

Thomas Lloyd, (President.)
Arthur Cook,
William Clark,
William Dyer,[1]
John Barnes,
Nicholas Newlin,
James Claypoole,
Phineas Pemberton,
John Symcock,
Robert Turner,
Joseph Growden,
John Cann,
Peter Alrichs,
John Bristow,
John Curtis,[2]
Griffith Jones,[3]
William Durvall,
William Markham, (Secretary.)

Assembly.

Bucks.	Chester.	Kent.
Thomas Langhorn,	John Blunston,	John Brinkloe,
Robert Hall,	George Maris,	William Berry,
Nicholas Walne,	Barth. Coppock,	Richard Wilson,
Robert Lucas,	Caleb Pusey,	Thomas Pemberton,
Henry Baker,	Edward Bezar,	William Freeland,
Edward Bennet.	Randel Vernon.	Benoni Bishop.
Philadelphia.	**New Castle.**	**Sussex.**
Humphrey Morrey,	Johannes DeHaes,	Luke Watson,
William Salway,	Edward Blake,	Henry Smith,
John Bevan,	Valentine Hollingsworth,	Henry Molestine,
Lasse Cock,	John White,	Henry Bowman,
Daniel Pastorius,	John Darby,	Samuel Gray,
Joseph Paul.	Richard Noble.	Henry Stretcher.

John White, Speaker. John Claypoole, Clerk.
Richard Reynolds, Messenger.

The Council met at the time appointed by law, and having read the latest advices and instructions from Governor Penn, abandoned all intention of promulgating any new legislation for the consideration of the Assembly, but devoted their attention to devising some plan by which the laws already enacted might be better understood, and more effectually enforced. The repeal of the entire body of the laws as they stood, with the

[1] Council refused to admit William Dyer, because he had been unfaithful as King's Collector of Customs.

[2] John Curtis was returned from Kent county, but being under suspicion of speaking treasonable words, though acquitted by the grand jury, the Council would not receive him as a member.

[3] In place of William Frampton deceased.

revision, and reënactment, in future, of such of them as were material to the present uses of the Province, was seriously talked of, and seems to have been in accordance with the instructions of Governor Penn.[1] This dangerous course, however, the Council did not feel warranted in pursuing without additional and more express instructions from the Governor.

The only alternative remaining, was to permit the laws to remain intact, and it was unanimously agreed, "that the laws so compacted and continued as they now are may remain and be in force, without annulling, variation, or supply of additional bill or bills at this time, till we hear further from the Governor, his arrival, or the sitting of the next Provincial Council, in order to prepare bills to be promulgated for the Assembly to pass into laws."[2]

No laws, therefore, were passed at this meeting of the General Assembly, but judges of courts were instructed to strictly enforce existing laws, which were reported as being notoriously transgressed.

The Assembly, in consequence of this action of the Council, having, at its meeting at the usual time, in Philadelphia, no legislative work to perform, was busied with trying to correct the errors into which it had fallen, through its own ignorance of its privileges, or had been forced into by the conduct of Council. The misinterpretation of the laws leading to "diversity of opinion, and irregular proceedings," was also a cause of uneasiness to many members.

On the 12th of May, a conference with the Council was sought, and obtained. At this conference, the following "proposals" were presented to the President and Council, with the request that the answer to them should be sent to the Assembly, in writing:

1. That y^e^ Presid^t^ and Councill be moved y^t^ the Counties may not Suffer a Vacantcy by the Suspention of members, but that y^e^ persons may Either be re-admitted, or Else writs Issue out the respective places for a new Choyce.

2dly. That y^e^ Councill be moved to revoke their Orders to the County Courts prohibiting Executions to be Issued out untill tenn days after Judgment, by reasons divers Inconvenentcies have accrued thereby.

3dly. That y^e^ Presid^t^ & Councill be Desired that for y^e^ Continuing of a good understanding between y^e^ upper & Lower Counties, that there may be at least One of the Prov^ll^ Judges Chose from y^e^ Lower Counties.

4thly. That y^e^ Councill be moved to prohibitt Iregular Summons to be Issued out from one County to an other, to be Vexation of the free people of this Province, & Contrary to y^e^ Intent of y^e^ Law.

5thly. That the Councill be moved according to y^e^ power of y^e^ Charter, to take a Speedy acco^t^ of y^e^ moneys paid for y^e^ Erecting of Bouys, & y^t^ w^th^ all Convenient Speed y^e^ sayd Buoys be Erected, for y^e^ safety and preservation of Vessels coming in and going out of this Province & Territoryes, & to prevent the Claymours of Masters of Vessells who are obliged to pay the Money and Reape no benefitt thereby.

Signed p order.

JOHN WHITE, Speaker.

[1] Col. Rec., Vol. I, p. 198.

[2] *Ibid.*

To these proposals, the Council, after consideration, gave the following answers:

1. If a suspended member be not admitted, nor Clear himselfe within two months then a new writt shall be Issued to Choose another according to Law.
2. Wee Refer the Same to y^e^ former practice, and y^e^ Discression of y^e^ Judges and Justices of the Respective Courts.
3. In Choyce of Judges, there should be tender Regard and due Respect had to y^e^ Lower Counties.
4. That all Irregular Summons from one County to another shall be wholly Discountinanced.
5. It 's Ordered that an acco't be brought to y^e^ Prov^ll^ Councill of what money hath been Collected on accot of Bouys, with all Convenient Expedition, that it may be applyed to its proper use.

As to the explanation of certain laws, the following points were submitted to the Council:

1. That the Law relating to goods taken upon Execution & appraised, whether y^e^ Creditor shall be obliged to take them at y^e^ Rate appraised if they will not advance higher at y^e^ publick Sayle, and whether y^e^ appraisers are by Law Intended to be appraisers in other matters.
2. The Law Concerning Quarter Sessions; how far y^e^ County Quarter Sessions may be Judges of Equity as well as Law, and if after a Judgment in Law, whether the same Court hath power to Resolve itselfe into a Court of Equity, and Either Mitigate, alter, or Revers y^e^ said Judgment.
3. The Presid^t^ & Prov^ll^ Councill be requested to take such Effectual Care about setling the antient port of the whorkills at Lewis, whereby y^e^ Inhabitants may not be deprived of benefit of Receiveing goods from on board any Vessell, untill y^e^ said goods be first Cleared at New Castle, whereby y^e^ Difficulty of returning, and some times the danger that doth otherwise attend Vessels, have Deprived y^e^ Inhabitants of Such goods as have been Consigned to them.
4. That the Presid^t^ & Council be requested to Command that such necessary Publick Roads be Every where sett forth and Duly maintained, & more Especially in y^e^ County of Philadelphia, y^t^ traviling for man and Beast may be more Easie, safe & Certaine.
5. That the Assembly Confer with the Prov^ll^ Council about the regulation of the Current pay of this Governm^t^.

Signed p Order.
JOHN WHITE, Speaker.

To these points, the Council answers:[1]

1. That as to the Appraisment of Goods taken upon Execution by Appraisers qualified according to Law, if they do not advance higher in the publick Sale, the President and Council judge they Shall be paid to the Creditor, according to Appraisement.
2. As to the County Courts being Judges in Law as well as Equity, and reversing Judgments given in the same Court, it was the Opinion of the President and Council, That the Law Number 157 made at New Castle doth Supply and answer all Occasions of Appeal and is a plainer Rule to proceed by.

[1] Votes of Assembly, Vol. I, p. 41.

3. That Care shall be taken to Supply the Port of Lewes.
4. That suitable Roads shall be settled.

The Assembly, having received these answers to their proposals, and being thus enabled to "give an account of their Proceedings to their several Counties," announced to the Council, on the same day, May 12, their determination "to shut up this session," which they accordingly did.[1]

[1] Votes of Ass., Vol. I, p. 43.

Seal of Sussex county, 1683.

CHAPTER V.

THE NEW GOVERNMENT AND GENERAL ASSEMBLY OF 1688.

Although but vague, and to some extent unreliable, reports were sent to the Proprietary of the condition of affairs in the Province during his absence, yet the knowledge he had gathered of the disorders existing there, was soon sufficient to convince him that his experiment of entrusting the executive functions of his government to the whole Council, was proving a failure. We have evidence that he had determined, no later than the latter part of the year 1686, to limit the exercise of these functions to fewer persons. On "the first of the Twelfth-month (February,) 1686–7," a commission was prepared by the Proprietary for Thomas Lloyd, Nicholas More, James Claypoole, Robert Turner, and John Eckley; authorizing these five, or any three of them, to act as the executive part of the government under the style of "Commissioners of State," or of the government of Pennsylvania.[1]

The authority to act, however, does not seem to have been forwarded to the newly appointed Commissioners until the sixth of the following June, after the adjournment of the General Assembly of 1687. The Proprietary, writing at this date to his "trusty and well-beloved friends," the Commissioners above named, says: "I have constituted you, or any three of you, Governor, and so are properly the Commissioners of the government; to act as if I were present, and I hope it will conduce to your honor, and the peace and happiness of the people, under your care. I found my former deputation clogged with a long and slow tale of persons rarely got together, and then with unwillingness, and sometimes reflections, even upon me; for their pains of hearing one letter read; That time may shew them they were out, in their censure, having then contracted their deputation into your hands, Be diligent, faithful, loving," &c.[2]

For some reason, which cannot be explained from the records, Nicholas More and James Claypoole, two of the Commissioners appointed by Penn, at the date above mentioned, never acted.

The routine business of Council was transacted under the old *regime*, until the 9th of February, 1688, when the following record, being the last entry in the proceedings of government, under the style of "the President and Council," appears:

The Gov^{r} Comission under y^{e} broad Seal, unto Thomas Lloyd, Rob^{t}

[1] *Vide*, Proud's Hist. of Pa., Vol. I.

[2] Proud.

Turner, Arth. Cook, John Symcock, & John Eckley, Impowring them, or any three of them, to be his Deputy or Leiftenant, was Read.[1]

A knowledge, in part, of the Proprietary's object in thus changing the executive part of his government, and also of the character of the office and the duties of the newly appointed officers, may be had from the following instructions, prepared by the Proprietary for the five Commissioners originally appointed.[2]

Trusty and well beloved, I heartily salute you; lest any should scruple the termination of President Lloyd's commission, with his place in the Provincial Council and to the end that there may be a more constant residence of the honorary and governing part of the government for the keeping of all things in good order, I have sent a fresh commission of deputation to you making any three of you a *quorum*, to act in the execution of laws, enacting, disannulling, or varying of laws, as if I myself, were there present reserving to myself the confirmation of what is done, and my peculiar royalties and advantages.

First. You are to oblige the Provincial Council to their charter attendances, or to take such a Council, as you think convenient, to advise and assist you in the business of the public; for I will no more endure their most slothful and dishonorable attendance, but dissolve the frame, without any more ado; let them look to it, if further occasion be given.

Secondly. That you keep to the dignity of your station, in Council, and out, but especially to suffer no disorder in the Council, nor the Council and Assembly, or either of them, to entrench upon the powers and privileges remaining yet in me.

Thirdly. That you admit not any parleys or open conferences between the Provincial Council and Assembly; but one, with your approbation, propose and let the other consent or dissent, according to charter.

Fourthly. That you curiously inspect the past proceedings of both, and let me know in what they have broken the bounds or obligations of their charter.

Fifthly. That you, this very next Assembly General, declare my abrogation of all that has been done since my absence; and so, of all the laws, but the fundamentals; and that you immediately dismiss the Assembly, and call it again; and pass such of them afresh, with such alterations, as you and they shall see meet; and this, to avoid a greater inconveniency, which I forsee, and formerly communicated to Thomas Lloyd.

Sixthly. Inspect the qualification of members in Council and Assembly; and see they be according to charter, and especially of those who have the administration of justice; and whatever you do, let the points of the laws be turned against impiety, and your severe brow upon all the troublesome and vexatious, more especially trifling appeallers.

You shall shortly have a limitation from the King; though you have power with the Council and Assembly to fix the matter and manner of appeals, as much as to do any justice or prevent any disorder, in the Province, at all.

Seventhly. That till then, I have sent you a proclamation, to that effect, according to the powers of ordinance making, and declared in my letters patent, which you may expose as you please.

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[1] Col. Rec. Vol. I, p. 212.

[2] *Vide*, Proud, Vol. I.

Eighthly. Be most just, as in the sight of the *all-seeing, all-searching* God, and before you let your spirits into an affair, retire to him (who is no far away from every one of you; by whom kings reign, and princes decree justice) that he may give you a good understanding and government of yourselves, in the management thereof, which is that which truly crowns public actions, and dignifies those that perform them. You shall hear further from me by C. King; the ship is ready to sail, so shall only admonish you in general, that next to the preservation of virtue, have a tender regard to peace, and my privileges, in which enact from time to time. Love, forgive, help and serve one another, and let the people learn by your example, as well as by your power, the happy life of concord. So commending you to God's grace and keeping, I bid you heartily farewell.

Given at Worminghurst, in old England the first of the Twelfth-month 1686.

Under the new deputation, the Governors and Provincial Council, which sat in the General Assembly of 1688, were as follows:

Councillors { Thomas Lloyd, Robert Turner, Arthur Cook, John Symcock, John Eckley, } *Deputy Governors.*

Members of Council.

William Clark,	William Darvall,	Johannes D'Haes,
Joseph Growden,	Luke Watson,	William Yardley,
John Cann,	Samuel Carpenter,	John Bristow,
Griffith Jones,	Barth. Coppock,	Peter Alrichs.

William Markham, Secretary.

The following members of Assembly were returned:

Bucks.	Chester.	Kent.
Nich. Walne,	John Blunston,	John Brinkloe,
Henry Baker,	James Sunderlin,	John Betts,
Richd Hough,	Geo. Maris,	William Rodney,
Robert Lucas, } Dead.	Robt Pile,	John Burton,
Robert Hall, } Dead.	Edwd Carter,	Saml Burbury,
Joshua Hoops.	Thos Coborn.	Jno. Richardson, jr.

Philadelphia.	New Castle.	Sussex.
Thos Hooton,	John White,	Thos. Winne,
Thos. Fitzwater,	Edward Blake,	Henry Bowman,
Lasse Cock,	Peter Baynton,	Henry Molestine,
James Fox,	Val. Hollingsworth,	Thos. Price,
Griffith Owen,	John Darby,	John Symons,
William Southersby.	Joseph Holding.	Albertus Jacobs.

John White was elected Speaker.

James Claypoole was chosen Clerk, and Richard Reynolds Messenger.

At the session of the Council, held preliminary to the meeting of the Assembly, Samuel Carpenter, John Bristow, Joseph Growden, John Cann, and Griffith Jones were appointed a committee to act "with the Attorney General," in preparing bills to be proposed to the Council and Assembly, and on the 12th of April, the following seven bills, quoted by their titles, were reported and unanimously passed, for promulgation, as was customary:

1. The Bill for Continuance of former Laws.
2. The Bill for Enabling of Widdows of Intestates to sell Land.
3. The Bill prohibiting y^e^ Exportation of Deer Skins before being Exposed to Sale.
4. The Bill to make Lands layable to pay Debts.
5. The Bill for Legall Intrest.
6. The Bill about Records.
7. The Bill for Supply.[1]

At the meeting of the Assembly, which took place at Philadelphia at the usual time, both officers and members exhibited a commendable desire to acquaint themselves with the status of affairs under the new government. Their first expressed, and most natural wish, was to procure, for examination, a copy of the commission of the new government, so that they might "warrantably proceed in all such matters." To refresh their memory in the fundamental law of the Province, they desired to have a view of the original charter, or a copy of the same, together with a true copy of all the laws of the Province. To this reasonable request for copies of the charter and laws, William Markham, Secretary of the Council, gave answer to the Assembly "that he hath none but what belongs to his office."[2] The Assembly were also desirous of having a fixed place for conference with the Council.

To these overtures the Council paid little heed, at least during the first day's session, doubtless maturing some plan for action under the Governor Penn's instructions, to a knowledge of which the Assembly had not yet come.

An omission on part of the Assembly, this year, to present their newly elected Speaker to the Government and Council for approval, after the custom in vogue, together with their hasty action in assuming an attestation of allegiance to King James, and fidelity to the Governor, conjoined with a faithful promise not to divulge any of the proceedings of the Assembly, may account, in some degree, for the Council's tardiness in

[1] Col. Rec., Vol. I, p. 221.

[2] Votes of Ass., Vol. I, p. 42.

acquainting the Assembly with its determinations. The Council certainly took umbrage at this action on part of the Assembly, and so informed the first committee with which they saw proper to hold conference, plainly intimating through it to the Assembly, that the Speaker of that body should have been presented to the Governor and Council, to be approved of, and raised the question, for their consideration, whether they judged themselves qualified as Assemblymen. The Council further informed the Assembly that they "had not power to make a committee, and the Council would not receive them by a committee for the future; that what addresses were made from the Assembly, the committee of Council would present them to the Governor and Provincial Council, and inform them their resentments thereof, but not as a committee of the Assembly, but by some members thereof. But that the present business of the Assembly was only to consider the promulgated bills, whether fit to be passed into laws or not, or amend the same, wherein they should be very ready to concur with the Assembly, *else if they did not begin to consider the bills, the Council would dissolve them.* And that the Assembly keeping themselves so private, and shutting their doors, seemed to the Governor and Provincial Council to be some new prerogative power assumed to themselves."[1]

The misunderstanding thus unhappily inaugurated between the two branches of the government, continued to the close of the session. The Assembly could obtain conference with the Council only at the Council's pleasure, and under its prescribed rules.

Although the Assembly's bill of grievances, containing seven clauses, was received by the Council, and answered with fair promises, the general legislative work of the session was restricted, except in one or two particulars, to the narrow compass of the Council's commands.

Of the seven bills promulgated by the Council, five were passed into laws by the concurrence of the Assembly. The Council endeavored to enforce the passage of the two remaining bills, by withholding their approval to the five which had been returned, thereby threatening to detain the Assembly in prolonged session. The Assembly, however, stood firm in their determination not to agree to the obnoxious measures, and the Council was compelled to allow, on the 19th of May, an adjournment of the General Assembly, without accomplishing their purpose in this respect.

The titles of the bills which failed of passage, were:

1. The bill prohibiting the exportation of deer skins before being exposed to sale.

2. The bill of supply.

Notwithstanding the many unpleasant occurrences of this session, at its close the Assembly drew up a paper and presented it to the Governor and

[1] Votes, Vol. I, p. 44.

Council, "as a thankful acknowledgement of their kindness," &c.[1] Papers, such as these, intended for the absent Proprietor's eye, were calculated to deceive him as to the actual condition of affairs; but, if so intended, they failed of their purpose. Penn was not deceived, for he tells us himself, though his soul longed to "see poor Pennsilvania again," he could see here "nothing inviting."

[1] Votes, Vol. I, p. 47.

Seal of Inrolment Office of the Province of Pennsylvania, 1683.

CHAPTER VI.

THE ADMINISTRATION OF BLACKWELL AND THE GENERAL ASSEMBLY OF '89.

When, as President of the Council, Thomas Lloyd was compelled alone to assume the responsibility of the proper conduct of affairs in the Province, and the reproach and contumely subject to failure in that line of duty, there is little doubt that he became heartily tired of his position, and earnestly besought the Proprietary to relieve him of his troubles, by placing the control of the government in other hands. But when the burdens of government, to a large extent, were lifted from his shoulders, without his power being materially diminished, by the creation of the five-fold deputation of 1688, his desire for "a quietus," as the Proprietor expresses it, was not so frequently or earnestly manifested as previously, and, although provision for his retirement, and the appointment of Samuel Carpenter, as member of Council in his place, was made by the Proprietary, Lloyd does not seem to have availed himself of the Proprietary's kindness and evident desire to indulge his former wishes, for he did not retire from the Board of Commissioners of Government, but continued to act as the most prominent member of that Board, until it was dissolved by the Proprietary's act in granting a commission to John Blackwell, as Governor of the Province.

There is even reason to suppose, from Lloyd's subsequent treatment of the new Governor, that he was not too well pleased with that official's arrival and the sudden curtailment of his own authority.

Governor Blackwell was not a member of the Society of Friends, and was, in all probability, appointed by Penn with the view of allaying the jealousies and bickerings among the people, growing out of the incongruous elements of their composition, comprising, as it did, a variety of nationalities and religious persuasions, which, instead of harmonizing, yearly grew more antagonistic. A master hand was needed in the government. Penn realized the terrible consequences of his absence, but was powerless to hasten his return. He had tried the experiment of entrusting the government to the people themselves, and to leaders chosen from their own number, but this had proved a failure. He now determined to place over them an entire stranger, who, not being a party to their dispute, would, if prompted by the right motives, act impartially and challenge their reverence.

Captain John Blackwell was commissioned Governor of Pennsylvania and territories, on the 25th of September, 1688. He arrived in Philadel-

phia from New England, (where he was residing when commissioned,) on the 17th of the following December, and sent his commission to the Council on the day following.

As soon as the new Governor could secure the attendance of a sufficient number of Councillors to constitue a quorum for business, which did not occur until the 14th of January, he proceeded at once to reorganize the government. Steps were taken to enforce the charter attendance of members of Council, and stated sessions were fixed on the second and fifth days of each week.

Blackwell's first act, though reasonable enough, was exceedingly unfortunate, and led to a serious misunderstanding with a prominent and influential official, Thomas Lloyd, ex-President of Council, and acting Keeper of the Great Seal of the Province; a misunderstanding which was but a forerunner of the other and more serious disagreements between the Governor, the subordinate officers of the Province, and the members of Council and Assembly, which rendered notorious the short and unprofitable administration of Blackwell.

The terms of the Justices of the County Courts for Philadelphia having expired, the Governor, with the approval of the Council, had prepared drafts of new commissions, which were sent to Thomas Lloyd, with the Governor's warrant, for affixing to them the Great Seal of the Province. This Lloyd refused to do, returning the warrant to the Governor, who immediately ordered the commissions to be passed under the lesser seal, with the expressed intention of referring the matter to the Proprietary for confirmation in future.

This conduct on part of Lloyd, called the attention of the Governor and Council to the importance of determining at once who was the legal keeper of the Great Seal, and how far the keeper could exercise control over it. As Thomas Lloyd had been commissioned keeper of the seal by the Proprietary, his right to retain it in his possession could not be disputed, but his conduct in refusing to affix it to documents at the request of the Governor, was declared to be arbitrary and unreasonable.

Having been informed that it was Lloyd's intention to visit New York, the Governor and Council determined to request him to make such disposition of the seal that access might be had to it during his absence. The question was raised whether the keeper had a right to leave the Province at all, while he had charge of the seal, but the privilege of going was finally accorded to him, provided he left the seal with the Council before his departure.

When Lloyd learned of this resolution of Council, as he did at once, being formally served with a copy of the same, he was highly incensed, as will appear from the following paper, which he read in reply to the Council:

Upon the perusall of two Resolves passed by you in Council y^{e} 1th Inst & Delivered me by ord^{r} this morning (being the ffourth day since) I am

much Concerned that such an Entry so destructive of Right and inconsistent with property should be found upon your book.

You have, as much as in you Lay, introduced an ill precedent of disposeing Arbitrarily the most Eminent Estate for life as yett declared in this Governm^{t}, and this was done the Cause vnheard: Whereas, no ffreeman here ought to be Condemned or Concluded to his wrong without his answer, provided he doth not wilfully absent himselfe; and ffurther, it is apparent by y^{e} Conclusion of your Order, that it was not Intended by y^{e} wording of the same, that I should be admitted to my Defence, but to be made only acquainted wth your Determination therein, and so to abide by it as an Irrevocable Sanction, I might with a great Deal of reason, vnder the generous Constitution of this Province, Sooner Expected a Confirmation of y^{e} Liberties of Estates ffrom you then Such a proceedure, in no wise to be Countenanced.

Your Seat is a high jurisdiction, and the higher it is the more just and honourable ought its proceedings to be, and so give Examples of Justice to Inferiour Courts. Violent Courses, and hasty, precipitate Councells, will Slowly and meanly Commend y^{e} policy of their Authors: I wish for the ffuture, that no Sinister designe, passion, or male conduct may so Influance or hurry any of the Sincere minded of you as to act unbecoming y^{e} wisdom and dignity of the place. You have dealt vnkindly by me; and not only so, but you have digged Deepe, tho' vnawares, I am perswaded, to Severall of you, to lay a foundation whereby to ground a misdemeanour against me vpon a Conjectured non complyance with your Resolves, and this being a personall matter, and of great moment, you have done by y^{e} Lesser number, and that by Vote, being vnwarrantable by Law & Charter.

The duty of my place is to advise, and with you to Endeavour that nothing be attempted by any person or persons here, to y^{e} Subvertion of y^{e} fframe of Governm^{t}; had you well understood & Considered the matter before you, the Tenure of y^{e} Custody and y^{e} Station of The Officer, I should not have been thus treated by you. My Request is before I make my particular answer to two or Three positions w^{ch} might Lead into this act, That you Order Either the aforesaid Resolves to be Raz'd out or Cross'd, in y^{e} Councill book, as being such which are not to be drawne into Imitation, you disposing y^{e} Custody of y^{e} Seal without discoursing or giving Notice to y^{e} Keeper to appear, who hath affixed Estate therein; Otherwise, that this writing may be Entred with you as a soft, Tho' sound memoriall, against such an undue proceeding. I may say as vpon a former harsh and hardly warrantable attainder of a person vnsought and vnsent ffor, *Auferat Obliuio Si potest si non ut cunque Silentiam togat.* Lett such methods be covered with Silence or buryed in Oblivion. My love to y^{e} Gover^{r}, people and their Sincerity, hath made me Serve them Chearfully Sometime. I have Endeavoured their good, tho' I might ffayle in effecting of it. I may have witness in Some breasts, that I have more injured myselfe and ffamily than any persons just Intrest vnder my notice. I have been a great Drudge in my Sphere, but not so abused an one afore. Be pleased to be tender of Right, and lett not y^{e} Royall Law be forgotten, of doing vnto others as you would have (Such) others doe vnto you.

This ill-timed and intemperate reply of Lloyd did but add fuel to the flame, and called down upon his head the just wrath of the Governor, who ordered the answer of Lloyd, insult as it was, to be recorded with the original resolution of Council, and declared his intention of transmitting the whole record to the Proprietary.

Soon another difficulty arose, concerning the appointment of the Provincial Judges, whose terms of office were about to expire.

Under the old law,[1] which Blackwell seemed inclined to follow, five persons were to be commissioned as judges by the "Proprietary and Governor," under the great seal of the Province. By a subsequent law,[2] the "Governor and Provincial Council" were empowered to commission the judges, under the lesser seal.

The latter law seemed to Blackwell to be an encroachment upon the powers of the Proprietary, reserved to him in the Charter. It nevertheless, under present circumstances, at first appeared to present the more feasible plan of appointment, as in all probability, if commissions were issued under the old law, the Keeper would refuse to affix the great seal to the same, which was necessary to render them legal. Upon maturer deliberation, however, it was determined not to act under the new law, the danger being, that the judges might refuse to accept of commissions sealed with the lesser seal of the Province, and the country thus be rendered destitute of a court for the administration of justice in the highest causes. The commissions for the new judges were accordingly issued under the old law, and sent to Lloyd, to be sealed with the great seal.

As was anticipated, Lloyd again refused to affix the seal. The grounds of his refusal were transmitted to the Council by a letter to William Markham, their Secretary. The Keeper claimed, that the instruments which had been delivered to him were in nowise proper for the seal; that the form itself, of the commissions, seemed to be "more moulded by fancy than formed by law;" that the style was "insecure," the powers "unwarrantable," and "the duration not consonant to the continuance of the laws upon which it should be grounded." He concluded, by asserting that he could not allow the commissions to pass under the seal in his custody, without a violation of the trust reposed in him.

After a lengthy debate, the Council decided, that the reasons assigned in Lloyd's letter were not sufficient grounds of refusal to permit the judges' commissions to pass under the seal.

The Governor desired the Council to send for the Keeper, and for the seal, and that he (the Governor) would affix the same to the commissions; but this the Council refused to do, and they gave as their reason, that the Governor could not act as Keeper of the Seal.

The position taken by Thomas Lloyd found many advocates, and as a natural consequence, factions, adverse to the policy of the Governor, arose, both in the Council and the Assembly, when it met, and exhibitions of contempt for the Governor's authority daily grew more frequent.

David Lloyd, Clerk of the County Courts of Philadelphia, having been called upon by the Governor and Council, in the trial of a case, to produce certain records, refused to do so. For this contempt, he was immediately discharged from his position, and James Claypoole was appointed

[1] Chapter 157. [2] Chapter 181.

in his place, but could not obtain possession of the papers and seal of the Clerk's office, which Lloyd refused to deliver up. When Council attempted to enforce the rights of the newly appointed Clerk, David Lloyd produced before them a commission, authorizing him to act as Deputy in the office of Rolls and Public Records, in the County of Philadelphia, and to be Clerk of Peace and County Courts, in said county, which commission was signed and sealed with the *private* seal of Thomas Lloyd.

With this additional proof of Thomas Lloyd's contempt for the new administration, the Governor was greatly indignant, and the Council declared it to be "a high usurpation of the Governor's authority." The obnoxious commission was taken possession of, and David Lloyd was compelled to make a proper delivery of office to his successor.

Thus, from the beginning of Blackwell's administration to the meeting of the General Assembly of 1689, did this factional fight continue, only to assume a more virulent form in the general sessions.

The Assembly met, entertaining no kindly feeling for the new Governor, owing to the arrest, by him, and continued imprisonment of one of its members. In the Council, trouble of a very serious character at once arose, in regard to the admission of three Councillors elect.

No bills had been prepared for the consideration of the Assembly, and the prospect was indeed gloomy for the accomplishment of any legislative work.

The returns show the following members of Council and Assembly:

Council.

John Blackwell, Esq., Governor.

Griffith Jones,	Barth. Coppack,	Peter Alrichs,
Joseph Growdon,	W^{m} Clark,	Jonathan D'Haas,
Luke Watson,	Sam^{l}. Carpenter,	John Eckley,[1]
John Hill,	W^{m} Yardley,	Sam^{l} Richardson,[2]
W^{m} Stockdale,	John Curtis,	Thos. Lloyd,[3]
John Symcock,	John Bristow,	W^{m} Markham, Sec'y.

Assembly.

Philadelphia,	Bucks.	Kent.
Joseph Fisher,	Arthur Cook,	Daniel Jones,
Abraham Updegrave,	W^{m} Biles,	W^{m} Berry,
Griffith Owen,	Phineas Pemberton,	W^{m} Manloe,
Thos. Paschall,	John Swift,	John Walker,
Thos. Duckett,	Nich. Walne,	Peter Groningdyck,
Henry Waddy.	Edmund Bennet.	Daniel Brown.

[1] John Eckley was returned a member from Philadelphia, but was not allowed to take his seat, "because 50 or 60 Welshman, who were not of the county, had joined in the vote."—*Col. R., Vol. I, p. 268.*

[2] Samuel Richardson, the Governor said, had misdemeaned himself in Council, and ordered a new writ of election to issue.—*Ibid.*

[3] Governor objected to admission of Thomas Lloyd, because he had charges of high crimes and misdemeanors, in discharging the government, to prepare against him.—*Ibid.*

Chester.	New Castle.	Sussex.
James Sandiland,	John Darby,	Baptist Newcombe,
Samuel Levis,	John White, (in prison,)	Samuel Gray,
John Bartram,	Valentine Hollingsworth,	Robt. Clifton,
Robt. Pile,	Edward Blake,	Henry Sheppard,
Michael Blunston,	Isaac Weldon,	Luke Watson, jr.,
Jonathan Hayes.	Rich. Mankin.	Jonathan Bailey.

When the returns of members of Council were read, the Governor refused to allow John Eckley, Samuel Richardson, and Thomas Lloyd to be admitted. The first mentioned, because his election had been illegal, fifty or sixty Welchmen, who were not inhabitants of the county, having cast their votes for him. Samuel Richardson, the Governor said, had "misdemeaned himself in Council;" and in the case of Thomas Lloyd, he delivered "a paper containing the heads of several articles of high misdemeanor, crimes, and offences, wherewith he charged the said Thomas Lloyd, in the name of the Proprietor and Chief Governor."

These members, the Governor insisted on arbitrarily excluding, without giving them opportunity to vindicate themselves, which ill-advised action was the cause of no little disturbance, for they insisted upon coming into the Council Chamber, and taking their seats, which usually resulted in a disorderly and abrupt breaking up of the meeting.

When the question of legislation was reached in the Council, the Governor first desired to see the rolls of all the laws, and engrossed laws of the Province, &c., which had been published under the great seal, in which form, it will be remembered, they were required to be published by the charter.

From the report of the Master of Rolls, in answer to this request of the Governor, it was ascertained, *that none of the engrossed laws, except the original charter, and the act of Union, had been passed under the great seal.*

This announcement led to a serious consideration in Council of the question whether the laws were sufficiently confirmed or established, not having been published under the seal, as the King's charter directed, but no conclusion on this subject, at this or subsequent sessions, was reached, although the question was long and earnestly debated.

In the Assembly, which met at the usual time, in Philadelphia, Arthur Cook was chosen Speaker. A committee, appointed to wait on the Governor and Council, to see whether they had anything to propose, reported, that they found the Governor in the street, in front of the Council house, attended by a few members only, and were informed by him, that there were not enough members of Council in town to transact business, but he would see what could be done to-morrow morning. Again, the next day, the Council was not ready for business. This state of affairs continuing until the 14th, the Assembly resolved to signify to the Governor and

Council their action on this grievance, which they accordingly did, and were, on the same day, called into conference with the Council.

At this meeting the Governor delivered a lengthy address to the Assembly. After reciting the manner in which he had received his commission, and the fact that he had met with unexpected opposition upon assuming the duties of his office, he continued as follows:

Gentlemen, I shall not apologize for myself further than by telling you:

1. That I Sought not to Rule over you. It was from y^e^ meere good will & pleasure of y^e^ Honb^le^ Proprietor, (my worthy friend,) and I hoped it would have ended before this time.

2. That Being Resolved of undertaking it for a time, I also designed to do it w^th^ all imaginable respect to him & yourselves.

3. That I have endeavord so to demean myself therin as I doubt not (when my master shall receive the acco^t^ of what has past since my arrivall) it will be sufficiently evidenced, That I have acted according to my Comission & instructions from him.

4. That in Expectation of his arrivall, (w^ch^ God grant suddainly, if it be his will,) I shall wayt for my vindication against y^e^ malevolencye of my opposers.

I suppose you have been formerly acquainted with y^e^ reasons & necessity of y^e^ Proprietor's absenting himself so long from you, as till the late Revolutions in England. He hath frequently evidenced his strong desire above all things to be restored to you.

What hath hinderd of late we have from divers Reports of things transacted in England, w^ch^ require we should wayt for their being renderd more certaine; and in the mean time strive in our prayers, That the Lord who Gov^rs^ this universe will do it in wisdome and Good will towards all his suffering people, and ourselves in particular.

I suppose, Gent., You expected some bills should have been sent downe to you from y^e^ Prov^ll^ Councill, for y^r^ Consideration before your coming up & passing them into Laws at this meeting.

Divers reasons may be given why none were I shall acquaint you with some of them, Viz^t^:

1. The Honb^le^ Proprietor (for reasons known to himself) hath given possitive directions for letting all the Laws drop or fall, Except the fundamentalls. And afterwards, for calling together the Legislative authority to passe such of them, or others, as they should think fitt, for the future: (w^ch^ is my full intention to do.)

2. The Honb^le^ Proprietor being by his patent from the King, authorized by himself & his heirs, &c., (with consent of y^e^ freemen,) to make, and (under his seale) to publish necessary Laws for y^e^ good of the people; (w^ch^ had never been done, with all requisit circumstances, whilest himself was here, and without w^ch^ I much doubt whether what were past, or should hereafter be past, have that due sanction or establishm^t^ w^ch^ Laws require;) and finding the Great Seale, under which they should passe, was not to be had, (the Keeper therof refusing to allow the use of it in any cases, by my direction,) I therfore lookd upon it as labour in vayne now to attempt it.

3. The present posture & alteration of affayres in Engl^d^, The uncertainty touching y^e^ Condion of y^e^ Proprietor himself and his power; and y^e^ fears of what danger might ensue, as well to him as to our selves, in passing & confirming laws of such a nature as would have been approved of in this conjuncture of affayrs, forbad it.

4. The annimosityes and dis-sentions w^ch^ were here amongst you before

I came, and have been lately Revived amongst the members of y^e^ Prov^ll^ Councill, by y^e^ indeavor of some; as to their proceedings in y^t^ service hindred their agreem^t^ in Councill as to doing any thing, In so much as I was constrayned for Love & peace sake, upon that and y^e^ other foregoing considerations, to dismiss them from further attendance on y^t^ account.

5. An Expedient occur'd to me of Lesse danger to us all, Viz^t^: That I being by my Comission as afores^d^, Referd for my Rule & instruction to y^e^ Laws then in being, & w^ch^ had been (as well by the Proprietor as y^e^ people,) approved & owned as such whilest he was amongst you here, and observing y^t^ he had Reserved y^e^ Confirmation & disannulling of what Laws should be made in his absence to himself, so that if any were or should be proposed, they could not take effect among us as laws till his pleasure should be therin declared, I came to a Resolution within myself, of observing them in y^e^ Course of my Governm^t^ as so many Rules & instructions given me by my Master, (as farr as I should finde or judge them not contrary to y^e^ Laws of Engld,) and of supplying y^e^ deffect or want in y^r^ Laws by y^e^ Laws of England, w^ch^ I believe will be most gratefull to Our Superiors in England, Especially at this time; and will be as usefull amongst ourselves; their being no other way (occurring to my understanding) whereby you may receive y^e^ benefit of them. And in this purpose I remayne Steady, (Unlesse you shall otherwise advise,) untill by better information out of Engld we shall be led out of these State-meanders.

Gent., I assure you that I will (as farr as I judge I may w^th^ a good conscience) manage myself in Governing you agreeably to y^r^ Charter from y^e^ Proprietor, & the Rules & instructions of your Laws; (if I may be sufferd to do;) and were they are defective, according to y^e^ King's Letters Pattents, having a due regard to your Principles, (as I am instructed by my Master,) till God shall be pleased otherwise to direct & cleare our way to us all; whose duty it is (as becomes Christians) in all things to attend & readily comply with his will. I say I will (as farr as I judge I may with a good conscience) so manage myselfe in Governing you, &c.

Then Gent. Let reason & not passion or prejudice, (through any mis informations,) influence you. I pray God direct us all therein; That we may in this our day, know the things that make for our peace; Least they be hidden from our eyes and wee (too late) Repent & say, we were advised and understood it not.

I assure you nothing shall be wanting on my part, wherin I may justify a complyance with any thing you shall reasonably desire. But I expect y^e^ same Liberty & exercise of my judgm^t^ & conscience as you do. I am sure you will Expect no more from me, for I take it for granted, this is a fundamentall Rule with every one of you, To do to others as you would they should do to you. When I fayle to walk according to this Rule, My Master will not let me be any longer y^r^ Governor.

Gent. I will only adde this, That as soon as we have certayne intelligence from Engld I will advertize you; and (if the Councill shall so advise) will call you together, in order to your being as early in bespeaking the Countenance of y^e^ Authority over us, to indulge us in our differences from others, as may be expedient, and will cordially joyn with you therin, if you shall desire it, That you may have as large privileges & exemptions as shall be judged reasonable to desire.

Now if these things I have sayd will not please you, I can say no more; but Go on and prosper in your owne Sentiments, and if you suffer by so doing, I shall be sorry your breach fell out in the time of my Government over you. But The will of God be done, with which I end at this time.

In reply to the Governor's speech, Arthur Cook, Speaker of the Assembly, spoke in part as follows:

As to thy commission, the nature and power of it, with the Instructions sent, or ordered for thy Observation, and the manner of thy admittance by those in authority, is best known to the persons concerned; but if thou be pleased to be more express and particular, in Reference to thy Commission and Instructions, it will give us further Satisfaction.

We heartily wish that thy Design in coming hither, with all imaginable Respect to our Governor, and Inhabitants here, may be pursued accordingly, with suitable Measures, and we cannot but have that Opinion of our Worthy Governor's tender Regard to the People here, that as he will justify no unbecoming Behavior in us toward his Representatives, so we hope he will vindicate no unlawful or rigid Procedure against us. As to our Governor's absence, we are very sensible that as it may be to his Disappointment, so it is extremely to our Prejudice, We were in Expectation of receiving Bills from thee and the Council as formerly; to the Reason thou art pleased to give, why none are sent, That the Proprietary and Governor hath given Directions for letting all the Laws drop or fall, and we are credibly informed, that afterwards he was well pleased they should stand, and all the Laws made here since his Departure, were sent for his Perusal, and none of them, to our knowledge, in the least declared void by him; neither do we conceive that he hath any Reason so to do.

As to the Establishment of Laws, we expected nor aimed at any higher Sanction than was used in the Governor's Time, but in case Bills had been prepared and promulgated according to charter and had passed by us into Laws and the Great Seal had been necessary, and the same duly required to be applied to the said Laws, and the Keeper refused the same, then we might justly blame such Refusal: But as to the way thou mentions, That our Proprietary and Governor is authorized by himself, and with Consent of the freemen, to make Laws, and under his Seal to publish them, and not in the granted Way of the Charter and *Act of Settlement;* as we don't desire so our Hopes are, that no Laws of that make will be imposed upon us. And had we made Laws at this Time, as formerly, we question not but that they had been as inoffensive in the present Conjuncture, as afore. And we do conceive that our Laws here, not being declared or adjudged by the King, under his Privy Seal, to be void, do remain and stand in full Force according to the true Intent and Meaning thereof.

* * * * * * * * * * * *

As to the Expedient proposed, of thy governing this Province and Territories, by such of the Laws as were made before our Proprietary and Governor went hence, which thou shalt judge not contrary to the Laws of England, we conceive no such Expedient can be consistent with our Constitution, without the concurrence of the Council, according to such Methods as have been heretofore used in Legislature, and what Course of Government is otherwise, will be ungrateful and uncertain unto us, for how far the Laws of England are to be our Rules is declared by the Kings Letters Patent.

As to thy assuring us, thy just Compliance with us, in what we may reasonably desire, we take it kindly, and do desire that *our Members of Council may be permitted to sit*, according to our former request.

* * * * * * * * * * * *

After a persistent endeavor to obtain from the Governor and Council a redress of its grievances, which were principally the continued imprison-

ment of one of its members, and the exclusion from their seats of *three members of Council*, the Assembly, on the 20th of May, adjourned finally, without being "righted" in its "just complaint."

To prevent the total lapse of all the laws, and the fearful results to the people, which would have followed such a catastrophe, the following declaration was made by the Governor and Provincial Council on the 23d of May:

Wheras, We have just cause to suspect that some persons have indeavored to suggest and insence y^e^ minds of the good people of this Government, That the Governor and some of the members of Provinciall Councill have had a designe or intent to subvert and overturn this frame of Government, and to make voyd the Charter of Liberties and Privileges which the Chief Governor and Proprietor hath been pleased to Grant unto Us and our Successors; and that they have also designed and intended to make voyd y^e^ Laws of this Government, which have been (at so great trouble, charges and expenses of the Proprietor and People) made for the preserving of the King's peace, and y^e^ mantaining of our Properties and privileges, and so to Rule by an Arbitrary Power; We do therefore think fit to declare, and we do hereby Declare, That We never had any such thought or intent, But were allways fully Resolved to Keep and preserve the same, as much as in Us Lyes; and should have been very ready to have joyned with the Assembly in the confirming of a Law for that purpose.

And for as much as that hath been obstructed or omitted, We have thought fit to Declare, and We do hereby Declare, That all the Laws past and agreed on by the Proprietor and Chief Governor, and Freemen in Provinciall Councill and Assembly, made before the Proprietor's going for England, shall be, continue and Remayn in the same force as now they are, untill We shall Receive Orders out of England about or concerning that matter; With this Proviso; That the Governor may issue out Commissions for Provinciall Judges, under the Proprietor's Lesser Seal: and That in the meantime, We do hereby Require and Command all Officers of this Province and Counties annexed, that they, in their severall Stations and places, do Act in all their proceedings and doings according to the Charter and Laws made by the Proprietor and People, as aforesaid, untill further Order. Given at Philadelphia, the three-and-twentieth of the third month, Anno Dom. 1689.

Having thus placed the laws upon a reasonably safe footing, the Governor dispensed with all but the Charter attendance of the Council.

Seal of the city of Philadelphia, 1701.

CHAPTER VII.

ADMINISTRATION OF LLOYD AND LEGISLATIVE COUNCILS AND ASSEMBLIES. 1690—1692.

"'Tis a good day. I have given, and I do unfeignedly give God thanks for it." So spoke Governor Blackwell, when, on the 1st day of January, 1690, he announced to the Council the termination of his rule over the Province. Although his administration continued but the short period of a year and a month, disorders of so grave a character arose in the government, that Blackwell, and, through him, the Proprietary, was early convinced that the longer continuance of the former's rule could be productive only of further trouble, and at his own earnest solicitation, the Proprietary, at last, agreed to the retirement of Blackwell, who called a special session of the Council, at the date above mentioned, for the purpose of formally announcing the, to him, joyful event. Upon quitting his seat, the Governor left with the Council the forms of two commissions for settling the government, which had been sent by the Proprietary, with instructions to the Council, that they should be the choosers of which they would have, as either would satisfy him.

The text of the proposed commissions follows:

{ SEAL. } WILLIAM PENN, Absolute Proprietary of the Province of Pennsilvania & Countys annexed, To his Trusty beloved ffriends, The Provinciall Councill ffor y^e^ Province of Pennsylvania, &c., Greeting:

Since the Providence of God hath disappoynted my reall Intentions and Earnest Inclinations of Coming to you for some time longer, and to y^e^ End y^e^ Inhabitants thereof may be assured I have and Seek noe other Interest then what is agreeable with theirs, I doe Consent that you please yourselves, & therefore doe hereby Impower you to Chuse Three persons within y^e^ said Province or Countys annexed, to present to me by y^e^ very ffirst opportunity, out of w^ch^ I shall Chuse one ffor my Deputy or Lieftenant Gover^r^; and till my mind therein is Knowne, I Doe hereby order that he that has y^e^ most votes, or is ffirst Chosen by you, shall ffrom y^e^ time of y^r^ Choice Act as my Deputy or Lieftenant Governor, over y^e^ said Province & Territorys, according to y^e^ Power and Limitation of fformer Commissions, you takeing Care to Support him in y^r^ Capacity, Revoking all fformer Commissions to any Else granted, and Requiring all persons concerned to give him that Respect due to his high station. Given at London, y^e^ 25^th^ day of y^e^ 7^th^ Mo., 1689.

WM. PENN.

{ SEAL. } WILLIAM PENN, absolute Proprietary of the Province of Pennsilvania and Counties annexed, To his Trusty and Beloved ffriends, the Provinciall Councill ffor y^e^ Province of Pennsilvania, &c., Greeting.

Since y^e^ Providence of God hath disappoynted my reall intentions and Earnest inclinations of Coming to you for some time longer, and to the End y^e^ Inhabitants thereof may be assured I have and Seek no other Interest then what is agreeable to theirs, I have thought fflt to appoynt you my Deputy and Lieftenant in Government, and do accordingly hereby Constitute you my Deputy to act and doe in all things, in my name and Stead, according to y^e^ power and Limitation of fformer Commissions. I Doe also Impower you to Elect y^e^ President fforom time to time, as you se Cause, so as he and you Exactly answer y^e^ Charter and Laws of y^e^ Country, Requiring all persons Concerned to give you y^e^ Respect due to your high station, w^ch^ Commission shall Continue so long as I shall See Convenient. Given at London, this 25^th^ of y^e^ 7^th^ month, 1689.

WM. PENN.

The Council, without much hesitation, adopted, unanimously, the commission which empowered the Council to act as Deputy Governor or Lieutenant, and forthwith elected Thomas Lloyd President.

Blackwell, having been informed of their action, came to the Council, and after congratulating them on their choice, presented them with the following instructions from the Proprietary:

I. That things be transacted in my name, by the style of my patent only, viz: *Absolute Proprietary of Pennsylvania, &c.*, if not contrary to the charter and laws of the Province, as I suppose not.

II. That commissions signed and sealed by me here, shall be sufficient warrants and directions to pass them under the Great Seal.

III. To collect the laws that are in being, and send them over to me in a stitched book, by the very first opportunity; which I have hitherto often and so much, in vain, desired.

IV. To be careful that speedy, as well as thorough and impartial, justice be done, and virtue, in all, cherished, and vice, in all, punished.

V. That fines be in proportion, both to the fault and ability of the party, that so they may be paid.

VI. That feuds between persuasions, or nations, or countries, be suppressed and extinguished, if any be; and, if none, that by a good conduct they may be prevented.

VII. That the widow, orphan, and absent may be particularly regarded, in their rights, for their cry will be loudest in all ears; but, by absent, I mean such as are so of necessity.

VIII. To countenance the Commissioners of Property, where land is unseated, or people are unruly in their settlements, or comply not with reasonable obligations about bounds, banks, timber, &c. For though we come to a wilderness, it was not that we should continue it so.

IX. That the Sheriffs of their respective counties be charged with the receipts of my rents, fines, &c., as they do in England, and give security to the Receiver General for the same.

X. To have a special care that Sheriffs and Clerks of the Peace impose not upon the people, and that the Magistrates live peaceably and soberly, for I could not endure one loose or litigious person in authority. Let them be men having some fear of God, and hating covetousness, whatever be their persuasion; to employ others is to profane an ordinance of God.

XI. That care be taken of the roads and highways, in the country, that they may be straight and commodious for travelers, for I understand they are turned about by the planters, which is a mischief that must not be endured.

XII. Consider by what means or methods the good and prosperity of the plantation may be promoted; what laws, in being, are unnecessary or defective, and what are wanting, and in each particular hereof let me have advice, as distinctly and as speedily as may be.

XIII. Rule the meek meekly, and those that will not be ruled, rule with authority, and God Almighty prosper all honest and prudent endeavors.

Given at London, this 25th day of the seventh month, 1689.

WILLIAM PENN.

Having delivered up the government, Blackwell, shortly afterward, took his departure for England.

GENERAL ASSEMBLY, 1690.

Council.

Thomas Lloyd, President.

John Symcock,	William Yardley,	Arthur Cooke,
Samuel Richardson,	William Stockdale,	Thomas Duckett,
John Curtis,	Luke Watson,	Barth. Coppick,
Griffith Jones,	J. D'Haes,	Thomas Clifton,
Griffith Owen,	John Blunston,	John Cann,
John Brinkloe,	William Clark,	Wm. Markham,(Sec'ry.)

Assembly.

Philadelphia.	Chester.	Bucks.
William Salway,	John Bristow,	Jos. Growden,
Humphrey Morrey,	William Jenkins,	Henry Poynter,
Thomas Fitzwater,	Robt. Pile,	Richard Hough,
Charles Pickering,	Joshua Fern,	Henry Baker,
Paul Saunders,	Geo. Maris,	Edmund Bennett,
Abraham Updegrove.	Caleb Pusey.	John Cook.
Kent.	**New Castle.**	**Sussex.**
John Barnes,	Edward Blake,	John Hill,
John Betts,	Henry Williams,	Samuel Gray,
Daniel Brown,	Richard Haliwell,	Robert Clifton,
Ez. Needham,	John Darby,	Henry Smith,
Richard Curtis,	William Grant,	Baptist Newcombe,
William Freeland.	John Donaldson.	Thomas Branscon.

The session of this General Assembly, which met at the usual time, at New Castle, progressed smoothly and rapidly to a close, and nothing of importance or interest attaches to it. The whole Council was constituted a commission to prepare the bills for promulgation. Seventeen bills were prepared and presented to the Assembly, of which thirteen only were passed into laws.[1]

The titles of the four rejected bills are:

1. "The bill for Custom upon Rum."

[1] *Vide* p. 182.

2. "The bill about wages for members of Council and Assembly."
3. "The bill for custom upon deer skins."
4. "The bill about mercenary pleading in Courts."

Assembly adjourned on the 16th of May.

We now arrive at a period in the history of provincial legislation, when the records of the proceedings of both Council and Assembly, have, either through design or by accident, been suppressed or destroyed. Those of Assembly for the year 1691, and of Council for the years 1691 and 1692, are missing. The inference is strong that these records have been designedly suppressed, for they undoubtedly contain the evidence of most disgraceful conduct on part of those connected with the administration of the government. That the proceedings of both branches, for the same year, should be missing, is a strange coincidence. It may have been thought best, by those in power, to throw the mantle of silence over this year's proceedings, so that coming generations might not too harshly criticise the jealous and unseemly conduct of the earlier lawgivers and executors of this, the then Province of Pennsylvania.

In the interval, between the meeting of the Assembly of '90 and that of '91, trouble of a very serious character arose between the Province and the territories. What the exact cause of this trouble was, and how far the animosities between the two sections were carried, cannot now be definitely determined, owing to the *hiatus* in the records above referred to, but enough can be gathered, from fragments preserved outside, to indicate something of the nature of the trouble, and the causes which led to it.

At a meeting of the President and Council, held on the 5th day of September, 1690, the Council appointed the following named persons to be Judges of the Provincial Court, and commissions were issued to them, under the hand of the President:

Arthur Cooke, Bucks, John Symcock, Chester,
Joseph Growden, Bucks, Peter Alrich, New Castle,
Thomas Wynne, Philadelphia.

With this selection of Judges, certain members from the territories, who had not been present at the meeting on the 5th, expressed great dissatisfaction, on the ground that they had not been treated as was the Proprietary's custom and their right, by having "two commissions drawn for the Judges, that the Prov'nce may be accommodated, and the counties annexed, with each one,"[1] that is, that in one of these commissions a Judge from the Province be named first, and in the other, a Judge from the territories, so that each first named Judge shall appear to have been commissioned as a Presiding Judge.

This dissatisfaction culminated in a clandestine meeting of the members from the lower counties, in the Council-House, on the 21st of November, at which meeting the following Councillors were present: Wil-

[1] Col. R., Vol. I, p. 119—344.

liam Clark, John Cann, Luke Watson, Jonathan DeHaes, John Brinkloe, Griffith Jones. Will Clark was chosen to preside over the meeting.

After discussing what they considered their grievance in the matter of the appointment of Judges, and declaring the neglect or unwillingness of Judges formerly appointed, to perform their duties, the Councillors in session, usurping all the powers of a full board, proceeded to the nomination and choice of a new set of Judges, as follows:

John Symcock, Chester, William Clark, Sussex,
Arthur Cooke, Bucks, Edm. Black, New Castle,
Griffith Jones, Philadelphia.

In the commissions which were forthwith drawn up, for these judges, John Symcock was named first in the one, and William Clark, first in the other. A committee was appointed, to request of William Markham, the present Keeper, that the seal of the Province might be attached to these commissions, but this Markham absolutely refused to allow.

This form of commissioning the judges seems to have been in accord with the former action of the Proprietary, in the premises, as is instanced in the first commission to judges issued by him, on the 6th of August, 1684, in which Nicholas More, of Philadelphia, is named first, and to which the Proprietary attaches a postscript, over his own signature, distinctly stating, that this commission was "for the three upper counties, and town of Philadelphia."[1]

Another copy of this commission was made for the lower counties, in which William Welch, (New Castle,) was named first, the proof of which lies in the fact, that on the 11th of September, 1684, the death of William Welch, *President*, was annonnced. A new commission for Provincial judges was asked for, and obtained.[2]

At a regular meeting of the President and Council, subsequently held, a protest was entered against the action of the six persons who had pretended to act as a Council, and in "an undue a irregular manner" had "issued forth pretended commissions for constituting Provincial judges, contrary to the express letter of the laws."

Their proceedings were declared entirely disallowed and annulled. The above protest, in the form of a proclamation, was signed by Thomas Lloyd, President.

Another cause of dissatisfaction to the lower counties, was the form of government just adopted. They preferred, as will presently be seen, first of all, the old plan of five commissioners; were utterly opposed to the plan of a Deputy Governor; and reluctantly consented to the present form.

Thus, step by step, the disagreement between the two sections increased, until an absolute separation became imminent. An attempted compro-

[1] Col. Rec., Vol. I, p. 121. [2] *Ibid.*, pp. 120, 121.

mise of the differences, in which it was proposed to satisfy the lower counties, in regard to the appointment of judges, and in other matters, having failed, seven members of the lower counties, in April, 1691, filed the following protest, and withdrew from the Council:[1]

1. That the mode of the five commissioners was most agreeable to them or to the counties which they represented.
2. That the commission of the Council was the next, though much less convenient than that of the five commissioners, *on account of the encroachments thereby made upon their rights and privileges by the Province, in imposing officers*, without their consent or approbation.
3. That the method of a Deputy Governor was the most disagreeable and grievous of any, on account of the choice of all officers being placed in a single person, and the expense or charge of his support; therefore, they would not agree to accept of that commission.
4. But that rather than the country should be without government, they would consent to that of the Council, provided no officers whatever were imposed upon any of the three lower counties without the consent of the respective members of Council for these counties.
5. That they desired to excuse themselves for not agreeing to have these things put to the vote, which, they said, they had experienced, the members for the Province would scarce ever do, till they were sure it would go against them.
6. That they, in behalf of the lower counties, protested against the acceptance of any commission but that of the five persons, and resolved, that should the Province act otherwise, they would govern themselves by the commission then in force, till the Proprietary's pleasure should be known therein.

Notwithstanding this unreasonable protest, the President and Council continued their endeavors to overcome the apprehensions of the lower counties, and induce them to return, but in vain. And thus, in the words of the Proprietary, "Thomas Lloyd is chosen by the three upper, but not the three lower counties, and sits down with a broken choice."

The Council met at Philadelphia, on the 17th of August, 1691, when the following members were present, two only from the lower counties being among the number:

Thomas Lloyd, President.

John Symcock,	John Curtis,
John Delavall,	Thomas Duckett,
William Stockdale,	John Bristow,
Arthur Cook,	Thomas Janney,
Joseph Growden,	William Jenkins,

Griffith Owen.

As soon as assembled, the Council entered upon the consideration of the following bill, (or bills, as it is styled in the preamble,) which was formally promulgated, but there is no proof that it ever became a law:[2]

[1] *Vide* Proud.

[2] *Vide* Proud.

The Deputy Governor and Freemen of the Province of Pennsylvania in Council met at Philadelphia, on the seventeenth day of the sixth-month 1691 have prepared and published, according to law and charter, these following bills, for the notice and concurrence of the Freemen in Assembly to meet, the tenth day of the seventh month next, at Philadelphia, aforesaid, in the form and style of laws, then and there to be confirmed amended, or rejected, as the general Assembly in their wisdom, shall see meet.

At an Assembly held at Philadelphia, the tenth day of the seventh-month, anno, dom, 1691.

WHEREAS by an act of General Assembly held at Chester, *alias* Upland, in the Tenth-month, 1682 it is, among other things, enacted by the Proprietary and Governor of this province of Pennsylvania, with the advice and consent of the Deputies of the Freemen of the same province and counties annexed, in the said Assembly met, that the Counties of NEW CASTLE JONES and WHOREKILLS, *alias* DEAL should be annexed and are thereby annexed, unto the province of Pennsylvania, as of the proper territory thereof; and the people therein should be governed by the same laws, and enjoy the same privileges, in all respects, as the inhabitants of Pennsylvania did, or should, enjoy from time to time, as by the same act, more at large appears: But, lest the said Proprietary and Freemen of the said province should by the said union, be deprived of the immunities and powers then before invested in them, apart from the said annexed counties, by virtue of the Kings letters patent, and first charter of liberties, or should otherwise be impeded or obstructed, in any act of government, which might relate to the public good, justice, peace and safety of the said province, which might not so immediately concern the territories, it was, at the same General Assembly, further enacted, that all matters and things, not therein provided for, which should or might concern the public good, justice, peace and safety of the said province, and the raising and imposing taxes, customs, duties, or charges whatsoever, should be, and are thereby referred to the order, prudence and determination of the Governor and Freemen of the said province, from time to time, which said laws have been since continued in, and by, the succeeding General Assemblies: *Now*, for as much as the present state and emergency of this government requires some speedy provision, for the support and safety thereof, and for the better establishing the justice and peace of the same, by reason of the breach, that the Representatives of the said annexed Counties have lately made, in willfully absenting themselves from their chartered attendance, in the last legislative Council and Assembly, and declining their other incumbent duties and services to the present constitutions of this province; as also in opposing and tumultuously preventing the election of new members, to supply the neglect of the said absenting Representatives, withstand all provincial acts of government, and denying the powers of the same: Therefore, for preventing all doubts and scruples concerning the meeting, sitting and proceeding of this present General Assembly, *Be it declared and enacted*, and it is declared and enacted by the Deputy Governor, with the assent of the Representatives of the Freemen of the said province in General Assembly met, by the Kings and Queen's authority, that the meetings of Council, since the dissent and refusal aforesaid, of the Representatives of the said annexed counties, and the meetings of the Deputy Governor and Representatives of the province in Provincial Council and Assembly met, on the tenth day of the third-month last past, at Philadelphia and now sitting, in this present General Assembly, are the Provincial Council and Assembly of this province of

Pennsylvania, and are hereby declared, enacted and adjudged so to be, to all intents, constructions and purposes, notwithstanding the absence of the Representatives of the said counties annexed: *And* for removing all objections that may arise, concerning the validity, force and continuation of the laws of this government, *Be it further enacted, by the authority aforesaid*, That all these laws that were made, continued and stood unrepealed at the last General Assembly, held at New Castle, in the year 1690, are hereby declared and enacted to stand in force and be continued respectively, until the publication of other laws, which shall be made by the next General Assembly of this province.

Ex per
DAVID LLOYD, *Cl. Council.*

With these vexatious and continued manifestations of jealousy and ill-feeling among the people of his Province, the Proprietary, up to this time, had been long suffering and indulgent, but in regard to the present conduct of the lower counties, he expresses himself, in no measured terms. Writing to a friend in 1692, he says:[1] "This has grieved and wounded me and mine, I fear to the hazard of all! Whatever the morals of the lower counties are, it was embraced as a mercy that we got and united them to the Province, and a great charter ties them, and this particular ambition has broken it; for the striving can arise from nothing else; and what is that spirit, that would sooner divide the child, than let things run in their own channel, but that which sacrifices all bowels to wilfulness! Had they learned what this means, *I will have mercy and not sacrifice*, there had been no breaches nor animosities there till I had come, at least. I desire thee to write to them, which they will mind now more, than upon the spot, and lay their union upon them, for else the Governor of New York is like to have all, if he has it not already."

From this same letter we learn that at the beginning of 1692, the Proprietary had forwarded a commission to Thomas Lloyd, to be Governor of the Province, and one to William Markham to be Governor of the lower counties. This Penn did most reluctantly, and evidently in the hope that the breach between the two sections would be healed, and the new commissions consequently not be accepted. He is said to have evinced not a little displeasure when he learned that such had not been the case.

To relieve the mind of the Proprietary, and at the same time present to him the affairs of the Province and territories in a more favorable light the two Deputy Governors, shortly after receiving their commissions, and their Councils, unitedly addressed a letter to Penn, in which they agreed for the sake of harmony to be satisfied with the plan of the two Deputies last proposed, and announced it as the intention of the Province and territories to act together in Council in the promulgation of a few bills, to be submitted to the consideration of the next General Assembly.

In pursuance of this design, the General Assembly was called and met at the usual time, at Philadelphia, constituted as follows:

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[1] *Vide*, Proud.

PROVINCIAL COUNCIL.

Council for the Province.	*Council for Territories.*
Thomas Lloyd, (Deputy Gov'r,)	William Markham, (Deputy Gov'r,)
Arthur Cook,	John Cann,
Joseph Growden,	Richard Halliwell,
Griffith Owen,	George Martin,
William Jenkins,	Albertus Jacobs,
John Bristow,	Samuel Gray,
Samuel Lewis,	
William Biles,	Richard Wilson,
	John Delavall,
	Hugh. Roberts.

ASSEMBLY.

Philadelphia.	Chester.	Bucks.
Samuel Richardson,	Philip Roman,	John Swift,
John Holmes,	George Maris,	John Otter,
William Salway,	Barth. Coppock,	Joshua Hoops,
Lasse Cock,	Robert Piles,	William Paxon,
John White,	Caleb Pusey,	Nicholas Walne,
Abraham Updegrave.	Thomas Withers.	John Roland.
New Castle.	**Kent.**	**Sussex.**
John Darby,	William Freeland,	William Clark,
John Donaldson,	Daniel Jones,	Robert Clifton,
Joseph England,	Simon Irons,	Baptist Newcomb,
John Grubb,	John Barnes,	Luke Watson, jr.,
Robert Ashdon,	George Manloe,	Thomas Branscon,
Edward Blake.	William Manloe.	William Piles.

In the Council five bills were promulgated and presented to the Assembly. Of the character of these bills, the record shows absolutely nothing. That one of them, "Bill No. 5," was considered of vital importance by the Council, and was so obnoxious as to be petitioned against by the inhabitants of some of the counties, and was, consequently, defeated by the Assembly, will appear, as will also the fact that the defeat of this bill was the cause of a disagreement between the Council and Assembly, which resulted in the dismissal of the latter body before the adoption of any of the promulgated bills.

William Clark, of Sussex, was chosen Speaker of the Assembly, William Alloway Clerk, and Charles Ware, Messenger, or door-keeper.

On the second day's session, a "printed paper" was presented by some of the inhabitants of the town and county of Philadelphia, who desired to have it read. The Speaker answered that its reading would be held under consideration.

Two days afterwards, when promulgated bill "number 5" was called for

consideration upon first reading, a protest was entered against its passage by the inhabitants of Chester county.

The "printed paper," above referred to, seems also to have been a protest against the passage of this bill, and after some consideration, on part of the Assembly, the paper was permitted to be read, and seems to have had the desired effect of defeating the obnoxious measure in the Assembly.

The other promulgated bills were passed by the Assembly, and messaged back to the Council, which body delayed final action upon them, evidently awaiting the result of a proposed motion to reconsider the Assembly's action on bill number 5. Unsatisfactory answers were accordingly given by the Council to all committees of the Assembly seeking information in regard to the Council's action on the bills, until the attempted re-consideration of bill No. 5 having utterly failed in the Assembly, that body received a reply so conclusive as to terminate, not only all further conferences on pending legislation, but also to bring the present session of the General Assembly to an abrupt adjournment.

The Council sent this message: "That the Governor and several members of Council did highly resent *that printed paper*, and that they had no further business to this House at present."

Although the Assembly, upon receipt of this message, immediately passed a resolution disapproving of the "dispersing and scattering" of the printed paper, the Council refused to transact any further business with them, and dismissed them finally on the next day, May 18, and thus closed the session of the last General Assembly prior to the suspension of the present Proprietary rule.

Seal of Inrolment Office Bucks county.

CHAPTER VIII.

GOVERNOR FLETCHER AND HIS FIRST ASSEMBLY, 1693.

The ostensible reasons why William Penn was deprived of the control of the government of his Province of Pennsylvania by the crown of England, in the year 1692, appear in the body of the commission granted by King William and Queen Mary, on the 20th of October, in that year, to Col. Benjamin Fletcher, to be Captain-General and Governor-in-Chief of Pennsylvania, &c. These reasons may be briefly summed up as follows: First. That the Province had fallen into disorder and confusion, owing to great neglects and miscarriages in its government. Second. That in consequence of this misgovernment, the public peace and administration of justice were broken and violated, and Third. That no provisions for the defense of the Providence against its enemies had been made, in consequence of which not only the Province alone, but the adjacent colonies were in danger of being lost to the Crown of England. But the true cause of this action of the King and Queen was undoubtedly grounded in a dislike for Penn, engendered by his intimate connection with the administration of the late King James, and augmented by the misrepresentations of the Proprietary's personal enemies, who could have had no more fitting opportunity for their detractions, or safer cloak for their designs, than that afforded by the reports concerning the late disorders in the government of Pennsylvania.

How completely the rights of the Proprietary and the existing constitution and laws of the Province were disregarded in the appointment of Governor Fletcher, can be gathered from the terms of his commission, which empowered him to govern both New York and Pennsylvania, under the same plan of government, with equal powers and prerogatives in both Provinces.

His Excellency BENJ[a] FLETCHER, his Commission und[r] the great Seal of England, to be Cap[t] Generall and Governo[r] in Cheif in and over their Maties. Province of Pennsilvania & Countrie of New Castle, &c.

William and Mary, by the grace of God, King and Queene of England, Scotland, France and Ireland, defenders of the faith, &c. To Our Trusty and well beloved Benjamin Fletcher, Esquire, our Captaine Generall and Governo[r] in Chiefe of our province of New Yorke, and the Territories depending theron, in America, Greeting:

Whereas, by Our Commission, under our great Seale of England, bearing date the eighteenth day of March, in the fourth yeare of our Reigne, Wee have Constituted and appointed you, the said Benjamin Fletcher, to be our Captaine Generall and Governo[r] in Chiefe in and over our Province

of New Yorke, and the dependencies thereon, in America: And have thereby granted unto you full power and authority, with the advice and Consent of our Council, as need shall require, to Summon and Call Generall Assemblies of the Inhabitants, being ffreeholders, within our said province, according to the usage of our province of New Yorke: And that the persons thereupon duely Elected by the major part of the ffreeholders of the respective Counties & places, and soe returned, and haveing before theire Sitting taken the oathes appointed by act of Parliament to be taken, in Stead of the oathes of Allegiance and Supremacy, and Subscribed the Test, and without takeing and Subscribing whereof none shall be capable of Sitting, tho' elected, shall be called and held the Generall Assembly of that our said province: And have thereby granted unto you, the said Benjamin Fletcher, by and with the Consent of our said Councill and Assembly, or the major part of them, full power and authority to make, constitute and ordaine Lawes, Statutes and ordinances, for the publick peace, welfare, and good government of our said province, and of the people and Inhabitants thereof; which said Lawes, Statutes and ordinances, are to be (as neare as may be) agreeable to the Laws and Statutes of this our kingdome of Englande: Provided, that all such Lawes, Statutes and ordinances be within three months, or Sooner, after the making thereof, Transmitted unto us, under our Seale of New Yorke, for our approbation or disallowance of the same; And in Case any or all of them, being not before Confirmed by us, Shall att anie time be disallowed and not approved, and soe Signified by us, our heires & Successors, under our, or their Signe manuall or Signett, or by order of our, or their, privy Councill unto you, the said Benjamin Fletcher, or to the Commander in Chiefe of our province of New Yorke for the time being, Then such & soe many of them as shall be soe disallowed and not approved, Shall from thenceforth cease, determine, and become utterly void and of none effect. And to the end that nothing may be passed or done by our said Councill or Assembly, to the prejudice of us, our heires and Successors, Wee have thereby willed & ordained that you, the said Benjamin Fletcher, shall have and enjoy a Negative Voice in the makeing and passing of all Lawes, Statutes & ordinances, as aforesaid; And that you shall & may likewise, from time to time, as you shall judge it necessary, adjourne, prorogue and Dissolve all Generall Assemblies, as aforesaid; With full power and authority from time to time, by your Self, or by any other to be authorized by you in that behalf, to administer and give the Oathes appointed by act of Parliament to be taken in stead of the Oaths of allegiance and Supremacy, to all and every such person or persons, as you shall thinke fitt, who shall at any time or times passe into our said province, or shall be resident or abiding there; and with the advice and consent of our Said Councell, to Erect, constitute and establish Courts of Judicature and publick Justice within our said province, and for the hearing and determining of all Causes, as well Criminall as Civill, according to Law and Equite, and for awarding of Execution thereupon, with all reasonable and necessary powers, authorities, fees and privileges belonging unto them: As also, to appoint and Commissionate fitt persons in the Severall parts of our said province, to administer the Oaths appointed by act of parliament to be taken instead of the oathes of allegiance and Supremacy, and the Test, unto such as shall be obliged to take the same: And also, to Constitute and appoint Judges, Justices of the peace, and other necessary officers and ministers in our said province, for the better administration of Justice and putting the Lawes in execution, and to administer, or cause to be administerd, such Oath or Oaths as are usually

given for the due execution and performance of offices and places, and for the clearing of Truth in Judiciall Causes. AND WHEREAS, wee judge it necessary that all our Subjects may have Liberty to appeale to our Royall person in Civil Causes that may deserve the same. Wee have thereby further signified our pleasure, that if either party shall not rest Satisfied with the judgment or Sentence of the Superior Courts of our said province, They may then appeale unto us in Our privy Councill, provided the matter in difference exceed the reall value and Sum of three hundred pounds Sterling, and that such appeale be made within one fortnight after sentence, and that security be Likewise duely given by the appellant, to answer such charges as shall be awarded in Case the first sentence shall be confirmed: And provided also, that execution be not suspended by reason of any such appeale unto us, And where you shall judge any offender or offenders in Criminall matters or for any fines or forfeitures, fitt objects of our mercy, you have full power and authority to pardon and remitt such offences, fines and forfeitures, before or after sentence given, Treason and willfull murther only excepted, In which Cases, upon extraordinary occasions, you are to grant reprieves to the offenders untill our Royall pleasure may be knowne therein. AND WHEREAS, by our said Commission, wee have given & granted unto you, the said Benjamin Fletcher, by yourself, your Captaines, & Commanders, by you to be authorized, full power and authority to Levy, arme, muster, Command and employ all persons whatsoever, residing within our said province, under your government; and as occasion shall serve, them to Transferr from one place to another, for the resisting and withstanding of all enemies, pirates and rebells, both att Sea and Land, and to transport such forces to anie of our plantations in America, as occasion shall require for the defence of the same against the invasion or attempts of any of our enemies; And to execute martiall Law in time of invasion, insurrection or warre, and during the continuance of the same, as also upon Soldiers in pay, and to doe and execute all and every other thing and things which to a Captaine Generall Doth or ought of right to belong; And also, to erect, raise and build in our said proviuce, such forts, plattforms, Castles, Citys, Boroughs, Townes & fortifications, as you, by the advice aforesaid, shall adjudge necessary; and the same, or any of them, to fortify and furnish with Ordnance, Ammunition, and all sorts of armes, fitt and necessary for the security and Defence of our said Province: AND WHEREAS, wee have thereby further given and granted to you, the said Benjamin Fletcher, full power and authority to Erect one or more Court or Courts admirall within our province of new yorke, for the hearing and determining of all Maiine and other causes, & matters proper therein to be heard, with all reasonable and necessary powers, authorities, fees and privileges; and to exercise all powers belonging to the place & office of Vice admirall of and in all the seas and coasts about our said province, according to such Commission, authority and instructions as you shall receive from our selfe, under the seal of our admiralty, or from our High admirall, or Commissioners for executing the office of High admirall of our foreigne plantations for the time being; And to Order and appoint faires, marts and marketts; as also, such and so manie ports, Harbours, Bayes, havens and other places for the Convenience and Security of Shipping, and for the better Loading and unloading of goods & merchandizes, as by you, with the advice and consent of our said Councill, shall be thought fitt and necssary; And in them, or anie of them, to erect, Nominate and appoint Custome houses and officers relating thereunto, and them to alter, change, place or displace, from time to time, as with the advise aforesaid shall be thought fitt,

with severall other powers & authorities granted & appointed you by our said Commission, for the good governing & for the Defence and security of our sd province of New Yorke, and Inhabitants thereof.

AND WHEREAS, by reason of great Neglects and miscarriages in the government of our province of Pennsilvania in America, and the absence of the proprietor, the same is fallen into Disorder & confusion By meanes whereof not onely the publick peace & administration of Justice (whereby the properties of our subjects should be preserved in those parts) is broken and violated, But there is also great want of provision for the Guard & defence of our said province against our enemies, whereby our said province, & the adjacent Colonies, are much exposed, and in Danger of being Lost from the Crowne of England: For the prevention whereof, as much as in us Lies, and for the better defence and security of our Subjects Inhabiting those parts During this time of warr, Wee find it absolutely necessary to take the government of Our province of Pennsylvania into our owne hands, and under our Immediate care and protection. WEE therefore, reposing especiall Trust and Confidence in the prudence, courage and Loyalty of you, the said Benjamin Fletcher, Have thought fitt to constitute and appoint you, the said Benjamin Fletcher, to be our Captaine Generall and Governor in Chiefe in and over our province of Pennsilvania and Countrey of New Castle, and all the tracts of land depending thereon in America: And wee doe accordingly, by these presents Command and require you to take the said province & Countrey under your government; And for the better Ordering governing and ruling our said province & Countrey, and the Tracts and Territories depending theron, Wee doe hereby give and grant unto you, the said Benjamin Fletcher, all and every the Like powers and authorities as in our said Commission, bearing date the eighteenth day of March, in the fourth yeare of our reigne, are given, granted and appointed you for the ruleing and governing our province of New Yorke, to be exercised in Like manner, by you, the said Benjamin Fletcher, in and over our said province of Pennsilvania and Countrey of New Castle, and the Territories & tracts of Land depending theron, in America: AND WEE DOE hereby require and Command you to doe and execute all things in due manner, that shall belong unto your said Command, and the Trust wee have reposed in you, according to the severall powers and directions granted or appointed you by this present Comission, or our Commission aforesaid, and such other Instructions & authorities as are, or att anie time hereafter shall be granted or appointed you, under our Signett & Sign manuall, or by our order in our privy Councill, and according to such reasonable Lawes and Statutes as now are in force, or hereafter shall be made and agreed upon by you, with the advice and consent of the Councill and Assembly of our province of Pennsilvania and Countrey of New Castle aforesaid: AND OUR WILL AND PLEASURE IS, and wee doe by these presents require and Command you, the said Benjamin Fletcher, until our further pleasure shall be knowne, to nominate and appoint a Leiutenant Governo^{r} of our said province of Pennsilvania and Countrey of New Castle, unto which Lieutenant Governo^{r} wee doe hereby give and grant full power and authoritie to doe and execute whatsoever hee shall be by you authorized and appointed to doe, in pursuance and according to the powers & authorities hereby granted unto you. AND OUR FURTHER WILL AND PLEASURE IS, and wee doe by these presents, Require and Command you in Like manner to nominate and appoint such & so many Councillors as you shall thinke requisite for our service, not exceeding the Number of Twelve persons att the most, out of the principal freeholders & inhabitants of our said province and Coun-

trey, which said Councellours, or anie three of them, shall be att all Times held and deemed a Councill to be ayding and assisting to you, and to our Leiutenant Governo^{r}, with their advice, in the administration of the publick affaires of that our province and Countrey. AND WEE DOE hereby give and grant unto you full power and authoritie from time to time to suspend such our Lieutenant Governo^{r}, or anie of the members of our Councill, soe appointed by you, from their respective places and Trusts, if you shall find just Cause for soe doeing, and to appoint others in their stead: AND WHEREAS, wee Have been informed of the good affection of the Inhabitants of our Colonies of East and West New Jersey in America, and that the militia of these Colonies Consist of fourteene hundred men, well armed & disciplined; And it being Convenient in this time of danger, that the forces of our Subjects inhabiting those parts be united as much as may be upon all occasions that may require the same, Wee have therfore thought fitt, and wee doe by these presents grant full power & authority to you, the said Benjamin Fletcher, and to the Governo^{r} and Commander in Chiefe of our province of Newyorke, for the time being, for & during this present warr between Us and the French King, to draw out and Command anie part of the militia of our Colonies of East and West New Jersey in America, not exceeding Seaven hundred men att anie one time; and to cause them to march out of our said Colonies, for the security or defence of Newyorke or Albany, or anie other parts or places of our province of Newyorke, under your Government, in case of anie Invasion, Insurrection, or attempt of the French or Indians upon our said province, or anie part thereof. AND WEE DOE hereby require & Command all officers and ministers, Civil & Military, and all other the inhabitants of our province of Pennsilvania and Countrey of New Castle, and our Colonies of East & west New Jersey, respectively, to be obedient, ayding & assisting unto you, the said Benjamin Fletcher, in the execution of this our Commission, and the powers & authorities herein contained. And in Case of your death, or absence outt of our province of Newyorke and pennsilvania, our Countrey of New Castle, and our Colonies of East & West New Jersey, To be obedient, ayding & assisting to such person as shall be appointed by us to be Commander in Chiefe of our province of Newyorke for the time being; To whom wee doe therfore, by these presents, give & grant, all & singular, the powers and authorities aforesaid, to be executed and enjoyed by him for and during our pleasure, or untill your arrivall within our province and Countreys aforsd. And if upon such death or absence, there be no person residing within our said provinces or Countreys, Commissionated or appointed by us to be Commander in Chiefe of our province of Newyorke, OUR will & pleasure is, that the then present Councill of Newyorke doe take upon them the administration of the Government of our province of Pennsilvania and Countrey of New castle, and execute this Commission, and the powers and authorities herein contained, in Like manner as in the government of our province of Newyorke. AND LASTLY, wee doe, by these presents, declare and appoint That you, the said Benjamin Fletcher, shall and may hold, exercise and enjoy the office and place of Captain Generall and Governor in Chiefe in and over our province of Pennsilvania and Countrey of New castle, and the Territories and Tracts of Land depending theron, in America, during our will and pleasure. IN WITTNESSE whereof, wee Have Caused our Letters to be made patents. WITTNESSE Our Selves, att Westminster, the One and Twentieth day of October, in the fourth yeare of our Reigne.

Per Bre. De privato Sigillo,

CHUTE.

In pursuance of the King's letters patent and commission to him, Governor Fletcher proceeded to New York, and thence arrived at Philadelphia about noon on the 26th of April, 1693, where he was received by the Sheriff of the county and a concourse of people. He entered the town in magnificent style, no doubt wonderfully impressing the then unsophisticated inhabitants with the grandeur of his appearance. The people were ordered to assemble in the market place, where the royal commission to him as Governor was read.

It has been assumed that Thomas Lloyd was subsequently censured by the Proprietary for his too hasty submission to the new regime. The conduct of Lloyd, at the arrival of Fletcher, and upon one or two other occasions, does not seem to warrant this assumption. The first recorded act of the new Governor was that he sent for the late Governor, Thomas Lloyd, and "did offer unto him the first place in the Council, *which he did refuse.*" William Markham, however, though a relative and a beneficiary of the Proprietary, did not scruple to accept the honor which Lloyd declined. He was appointed to the first place in the Council, and at its second day's sitting was nominated and chosen Lieutenant Governor, this choice being an eminently popular one with the Council, he being a gentleman "of their particular knowledge and good affections."

The list of civil officers proposed by the Council was approved of by the Governor.

By his commission, Fletcher was authorized to nominate and appoint a Council not to exceed twelve persons in number, any three of whom should at all times be "held and deemed a Council."

In pursuance of this authority, the Governor immediately appointed as Councillors, and administered the oath to a sufficient number of persons to transact business for the time being. To these he announced the necessity of the early meeting of an Assembly, which he possessed full authority to summon, and asked their opinion and advice concerning the number of representatives to be returned from each county. Even these advisors, whom the Governor had undoubtedly chosen on account of their manifested subserviency to his wishes, were loth to disregard entirely former customs, and counselled no "suddain alteration" of the number of Representatives. Their weak objections, however, were soon overcome, and on the 27th of April, writs were issued for the election of four persons from the county of Philadelphia, four from the county of New Castle, and three from each of the other counties, to serve as representatives in an Assembly, to meet on the 15th of the next month, May.

Against this mode of electing and convening the General Assembly of the Province, certain officers of the superseded government of Penn, namely, seven members of Lloyd's Council, Joseph Growden, John Bristow, John Delavall, John Symcock, Hugh Roberts, Samuel Lewis, and Richard Hough, presented a written protest to the Governor, which, reciting the provisions of the frame of government of 1683, which requires

the Provincial Council to consist of *three*, and the Assembly of six members from each county, concludes as follows: "We therefore earnestly desire that no other measures may be taken for electing or convening our legislative power than our recited laws and constitutions of this government prescribe, the rather, for that the said King did, by his letters patent, enjoin, require, and command, that the laws made as aforesaid, should be most absolute and available in law, and that all the liege people and subjects of the said late King, his heirs and successors, should observe and keep the same inviolably in these parts."

This address his Excellency Governor Fletcher, and his Council, decided to be "too general" for them "to have any regard to, or to answer it."

The preliminary arrangements for the meeting of the General Assembly having been concluded, the Governor proceeded to New Castle, where, on the 1st of May, the King's letters patent and his commission were publicly read to the people, amidst loud demonstrations of joy, the firing of guns and great shouting.

Here two new members were added to the Council, and the preliminary work of re-organizing the government performed.

The composition of the executive and legislative government of the Province at the meeting of the General Assembly, at Philadelphia, on the 15th of May, was as follows:

His Excellency BENJAMIN FLETCHER, Governor, &c.

WILLIAM MARKHAM, Esq., Lieut. governor.

Council.

Andrew Robeson, Esq.,
Robert Turner, Esq.,
Patrick Robinson, Esq.,
Lawrence Cock, Esq.,
William Salway, Esq.,
George Forman, Esq.,
John Cann, Esq.,
William Clark, Esq.,

Assembly.

Philadelphia.	Chester.	New Castle.
Samuel Carpenter,	John Symcock,	Edward Blake,
Samuel Richardson,	George Maris,	Cornelius Empson,
John White,	David Lloyd,	Henry Williams,
James Fox.		Richard Haliwell.
Bucks.	**Sussex.**	**Kent.**
Joseph Growden,	Albertus Jacobs,	John Brinkloe,
John Swift,	Thomas Pemberton,	John Walker,
Henry Poynter.	Samuel Preston.	William Manloe.

At the time appointed for their meeting, the Assemblymen-elect from the several counties, presented themselves before the Governor and Council.

To six of them, the oath prescribed by Parliament was administered.

The remaining fourteen refused to take the oath, "for conscience sake," and were allowed by the special grace and favor of the Governor, acting for their Majesties, to subscribe the "declaration of fidelity," and "profession of the christian faith," in lieu thereof.

Before dismissing the Assembly to their own meeting, the Governor ordered the Clerk of the Council to read to them their Majesties' Commissions. This the Governor did for three reasons, which he assigned, namely: That he had noticed that some holding commissions from the Proprietary had withdrawn themselves at the publishing of these, their Majesties commissions; that others had refused to act under that power, and that many of the present representatives were absent at that time.

Having organized by the choice of Joseph Growden, of Philadelphia, for Speaker; William Alloway, for Clerk, and Thomas Curtis, for Messenger, the Assembly, on the following morning, again presented itself before the Governor and Council. His Excellency heartily approved of the choice of the House for Speaker, and proceeded at once to acquaint the Speaker and Representatives with the business he had in hand, for their consideration, which was principally embodied in a letter from Queen Mary to the inhabitants of the province of Pennsylvania, representing to them the great expense which had been entailed upon the province of New York, in the defence of its frontiers against the French, and calling upon the several colonies and provinces of New England, Virginia, Maryland, and Pennsylvania, to furnish aid or assistance in men or otherwise, for the security of New York against present and future attempts of French and Indians. The Governor also called the attention of the Assembly to the necessity of providing a general revenue for the support of the government.

In regard to the confirmation of former laws, or the passage of new ones, the Governor promised his "readie concurrence" to all which were not in opposition to the laws of England.

The workings of the rebellious element, which manifested itself at the first arrival of Fletcher, soon became apparent in the Assembly. The Proprietary party in that body, could not divest itself of the idea that the old form of government still existed, nor appreciate the fact that Proprietary constitutions and laws had been rendered null and void by their Majesties' letters patent, in the commission of Governor Fletcher.

The prevalence of this mistaken idea among the members of the House, led to the adoption, on their part, and presentation to the Governor, of the following address, which elicited a plain and unmistakable answer from him:

To BENJN FLETCHER Esqr. Capt Generall and Governor in chiefe in and over the province of Pennsylvania & Countrey of New Castle &c. The humble address of the freemen of the said province and Countrey of New Castle &c. in Assembly mett, sheweth:

That since it hath pleased the King & Queen that the absence of the

proprietary's personall attendance in this government should be supplied by thee or by they Lieut. Wee the Representatives of the freemen of this province and territories with due respect to the power of thy Comission, and heartie acknowledgement of thy good will, care & tenderness to us, doe readily acquiesce with the king's pleasure therein, Earnestlie beseeching that our procedure in Legislation may be according to the usuall method and Laws of this government, founded upon the Late king's Letters patents, Which we humblie Conceive to be yet in force; And therfore, wee desire the same may confirmed unto us as our rights and Liberties. And we, with all faithfulness and sinceritie, doe give what assurance wee are capable of, in the present Circumstances we are under, to answer the Queen's Lett^{r} and thy request, according to our ability.

To which the Governor made this answer:

That this address Hath been drawn up with much deliberation, and by the most Learned in the Countrey, and it cannot be expected that I can give you an Imediate ans^{r}. I shall give you my ans^{r} in writting, But att present I must tell you, Gentl., You are verie much mistaken in alledging yo^{r} Laws to be in force, and at the same time, in yo^{r} present station, to desire a Confirmaon of ym. If in force, what need's my Confirmaon? Consider by what power you are convened here: You are either a Law'll Assembly & Legally calld, or an Unlaw'll meeting att the best, & we are doing nothing. If the Laws made by virtue of M^{r} penn's charter be of force to you, and can be brought in Competition with the great Seal of England that comanded me hither, I have no bussiness here. There is therfor nothing Left for you but to own the king's authoritie, or disown it. There cannot be two establishments of government, in opposition to one another. I wold have you satisfied in that point. I have an abstract of yo^{r} Laws by me, & manie of ym are repugnant to the Laws of England. By yo^{r} Constitution formerlie, the people wer to Choose the provinciall Councill: The king hath allwayes the power of Choosing his owne privie Councill, which is reasonable, for he is the best judge who are Capable to serve him. By your former Constitution the people wer to Choose representatives, who wer to have a negative voice in passing of laws, which is allwayes Lodged in the king, and for the present time granted unto me by their maties' Lres. patents. By your former Constitution the people did present to the Go^{r} a double number of Sheriffs, Justices of the peace, & I have the power of Commissionating & appointing officers, & manie other things in yo^{r} former constituons and Laws, repugnant to the Laws of England, too tedious to enumerate; which are altogether Contradicted by their maties' Letters patents. I doe understand that it is the opinion of the Learned in the Law, That Revenue of the Crown; The making of Laws; The power of Life & death; arming of the subject, & waging of warr; which wer granted to M^{r} penn, are the Reglia of the Crown & cannot be demised; as in case of an entailment, they are entailed upon the successor: you have heard of an entailed estate: the father is only tenant for life, & cannot demise it from the son; if he grant it for Longer than Life, it is void, & the son shall recover his estate. If there be anie Lawyers among you, they can informe you king Charles' grant of these things might be good to you during his life, because he might maintain his own act; But since his death they are become utterlie void. I wold have you advised of this point. *These Laws and that model of government is dissolved and at an end:* you must not halt between two opinions. The Kings power and Mr. Penns must not come in the scales together. But, Gentlemen as I said before when you did present your Speaker, If you

do propose anie Laws for your owne convenience, I shall readily concurr with them, If they be not repugnant to the Laws of England.

After consulting with the Council, the Governor had prepared, and forwarded, in writing, to the Assembly, the following formal answer to their address:

Gentlemen: I have, with the Council, considered yo^r address, and am sorry to find yor desires grounded upon so great mistakes. The absence of the proprietor is the Least cause mentned in their Maties Lres. patents for their Maties asserting their undoubted right of governing of their subjects in this province; there are reasons of greater moment, as the neglects and miscarriages in the late administration: The want of Necessarie defence ag^t the enemy & danger of being Lost from the Crown.

The Constituon of their Maties governm^t & that of M^r penn's are in a direct opposition the one to the other. If you be tenacious in sticking for this, it's a plain demonstration (use what words you please) that indeed you declaine the other. I shall readily concurr with you in doing anie thing may conduce to yo^r safetie, prosperitie and satisfaction: provided yo^r requests are Consistent with the Laws of England, their Maties Lres patents, and the trust and Confidence their Majesties Have reposed in me. Time is verie precious to me. I hope you will desist from all unnecessarie debates, and fall in earnest upon those matters I have alreadie mentioned, & still have to recommend to you, and for which you are principalie Convened together.

This reply was accompanied with a rather pointed intimation from the Governor to the Assembly, that he would not brook further dilatory action on their part, but desired them to decide the question at once, whether they would acknowledge their Majesties' letters patent, or would still persist in demanding a recognition of Mr. Penn's charter.

Upon receipt of this communication from the Governor, the Assembly unanimously decided, that legislation could safely be conducted by them in conjunction with the Governor, "according to the King's letters patent;" resolving further, however, that their action just taken should not be construed into a forfeiture of their right of having the benefit of the existing laws and the Constitution of the Government, so far as the same were not inconsistent with the tenor of the King's letters patent to Governor Fletcher.

With the Assembly's unanimous determination to submit to their Majesties' rule, the Governor expressed himself well pleased, and in regard to the laws for their government, he reiterated his former assurance to them, that he was empowered by his commission, and was at all times ready to give his sanction to such measures as were not repugnant to the laws of England and their Majesties' letters patent.

Having thus, as in allegiance bound, acknowledged the undoubted right of the King and Queen to rule over the territory within the limits of their government, the Assembly next addressed themselves to the task of convincing the Governor that the assertion, in their original address, in regard to the absence of the Proprietary, was not "grounded in mistakes," and, moreover, that their Majesties had been "misinformed," if, as was

stated in the Governor's reply, they had superseded the government of Penn, because of great disorders existing in the Province, on account of which the due execution of justice had been prevented, and provision for defense neglected, so that the Province had been in danger of being lost to the Crown.

This action of the House, though consistent, was impolitic, for it angered the Governor, and rendered him captious in his future dealings with the Assembly.

The object which Governor Fletcher chiefly desired to have accomplished at this sitting of the General Assembly, was the passage of the bill of supply, or assistance to the government, recommended in the Queen's letter. This was a bill for assessing the rate of one penny per pound upon the clear value of all personal estates, and six shillings per head upon such as were not otherwise rated, to go to the Governor for the support of the government in general, and especially to meet the present necessities of the Province of New York.

Upon the other hand, the Assembly were principally interested in securing the confirmation of their existing laws, or the reënactment of new ones, of like import.

The urgent demand for the Governor's presence on the frontiers of New York, rendered him impatient of the Assembly's delay in entering upon the consideration of the bill of supply. The reason assigned by the Assembly, for their delay, was their inexperience in the new methods of government, but their real object in withholding this bill was to compel the Governor, if possible, to inform them which of their old laws, when presented to him, he would refuse to sanction.

After several days of tedious examination of the old laws, the House at length presented to the Governor a "bill," which they desired him "to pass into an act."

This bill was what is known as the Petition of Right.[1] As first presented, it consisted of the *titles* only, of some ninety odd laws, for which reason the Governor refused to consider it, and so informed the Assembly, at the same time requesting them, since they had failed to do anything definite in regard to their old laws, that they would now respect his desires and pass the bill of supply.

This, however, as before stated, the Assembly had no present intention of doing, until the, to them, serious question of the status of the old laws was determined.

As the Governor had been dissatisfied with the list of laws presented him, because the titles only were recited, the House, after considerable difficulty, secured copies of the entire laws. These the Governor again refused to accept of for consideration, because they were not certified to, and were not published under Mr. Penn's seal. This second refusal of the Governor placed the Assembly in a peculiar position. They knew that by

[1] *Vide* p. 188.

the benefits of any of them were to be enjoyed in the future, their confirmation by the Governor must be secured; but the Governor refused to accept, as laws, the scripts of paper presented to him, because they were not certified to, and there was no evidence that any one of them had ever passed under the Proprietary's seal. In their inability to satisfy the Governor in these particulars, the only other alternative for the Assembly was to enter upon a reënactment of the former laws, which would have been a most unsafe proceeding, being a public and official acknowledgment that these laws never were valid, or legally in force.

The Governor, however, at length, expressed his willingness to assist the Assembly out of their difficulty, and at their own request, submitted the questions of doubt which had arisen to the consideration and determination of a joint committee of Council and Assembly.

After a lengthy and interesting debate, in which the status of the laws was thoroughly discussed,[1] the joint committee adjourned, with the understanding that the Assembly should revise its list of laws before again desiring the Governor's consideration of them, when the Council would advise his Excellency to grant their desires, and immediately upon the report of the committee to the Council, the Governor sent to the Assembly a message to the effect that "he was ready to grant that some laws should be executed." At the same time he desired them "to proceed upon other affairs before them, without loss of time."

Independent of the proposed laws in the "Petition of Right," and the bill of supply, twenty-nine new bills were passed into laws at this session of the General Assembly.[2] Notwithstanding the haste of the Governor to have the bill of supply enacted, the next step taken by the House was to present to the Governor and Council, for approval, all of the new legislation except the all important bill, which the Governor again demanded at their hands. In reply to this demand, a committee of the House presented to the Governor, for his perusal, an unsigned copy of the bill of supply which had been prepared by them. This copy the Governor refused to take any notice of, and demanded to know why it had not been signed by the Speaker. To this interrogatory, the committee gave him this plain answer, that the House had refused to pass this bill until they were informed of what had become of the new bills already sent up. Indignant at this reply, the Governor said that he had not been fairly treated by the Assembly, and that they had best consider what they were doing. That they were bringing the Province into bad repute in England, and, in short, must expect it "to be annexed to New York or Maryland." Then, peremptorily refusing to look upon the bill, until it was "three times read and signed by the Speaker," he dismissed the committee, who threw down another bill upon the table, and withdrew.

The Governor then consulted with the Council as to the advisability of dissolving the Assembly at once, but it was finally agreed to wait until a

[1] *Vide* Col. Rec., Vol. I, pp. 418—422.

[2] *Vide* p. 221.

their Majesties' letters patent all their former laws were null and void. If given hour, the next morning, when, if a satisfactory answer to the Queen's letter was not given, the Assembly should be dissolved.

This decided action brought the House to terms, and on the following morning their committee appeared, bringing the bill of supply properly signed by the Speaker, but first presented to the Governor, their amended "Bill of Right," with the request that it might be put in execution by the officers of the government.

The bill of supply was immediately passed by the Council, and the Assembly called to a conference with the Council on the passage of the other bills. Of the thirty-one new bills proposed, all, with the exception of the bill relative to ferries, were passed into laws.

As to the Petition of Right, which, in its amended form, embodied eighty-six laws, the Governor made an order, which was written at the close of the list, "that all Justices Sheriffs and Constables and other officers in the Province of Pennsylvania and Country of New Castle should execute or cause the same to be executed until their Majesties' pleasure should be further known."

Thus ended the controversy in regard to the former laws. Those which had not a place in the Petition of Right, as a matter of course, lost their force and validity.

The new laws and the Petition of Right were, by the Governor's orders and under direction of John Claypoole, Sheriff of Philadelphia, published at the market place in that town, two days after their adoption.

On the afternoon of the 1st of June, the Governor sent for the Assembly, and desired to know whether they wished to be adjourned, prorogued, or dissolved. To which the Assembly, through their Speaker, answered that they desired to be dissolved, when the Governor said: "Since you desire to be dissolved, I have dissolved you, and you are hereby dissolved, from the Assembly. So, gentlemen, I wish you all well to your homes." "Wee thank thee, Governor," and they departed.

Seal of the English Privy Council.

CHAPTER IX.

MARKHAM'S ADMINISTRATION AND THE GENERAL ASSEMBLIES OF 1694 AND 1695.

After the close of the general sessions of 1693, Governor Fletcher returned to New York, leaving the government of Pennsylvania in the hands of Lieutenant Governor Markham, and did not again personally appear in the government until the middle of May in the following year.

Acting under instructions from his superior, Markham had convoked an Assembly to meet at Philadelphia on the 2d of April, 1694, and at that date, accordingly, the Assembly convened, the several counties being represented by the following members elect, the council remaining the same as last year:

Philadelphia.	New Castle.
Samuel Richardson,	John Donaldson,
Samuel Carpenter,	Edward Blake,
Henry Waddy,	Richard Haliwell,
James Fox.	Henry Williams,

Chester.	Bucks.	Kent.
David Lloyd,	William Biles,	John Brinkloe,
Caleb Pusey,	Phineas Pemberton,	William Freeman,
Samuel Levis.	Jonathan Scaife.	Richard Wilson.

Sussex.
Thomas Pemberton,
Luke Watson,
Roger Corbett.

David Lloyd, of the county of Chester, was chosen Speaker.

During the interval between the two Assemblies, various causes for dissatisfaction had developed themselves among the people, which the Assembly of 1694 came prepared to present and have redressed. It was, therefore, with no small degree of chagrin that immediately upon their meeting, the Assembly found themselves precluded from the transaction of all business for the present, by a letter from Governor Fletcher, grounding apologies for not being able to meet them on the 10th of April, in the fact that he was compelled, at the last moment, to give his attendance to a conference with the Indians at Albany, relative to a treaty of peace. He therefore desired the Assembly to be adjourned until the first of the next month, May, when it was his purpose to meet them.

The Lieutenant Governor endeavored to convince the Assembly that the Governor's absence was compelled by imperative necessity. To this conclusion the Assembly rendered a tardy and, at best, ill-humored assent, desiring that they might not be adjourned at once, but might be permitted to await the arrival of their tardy members, and to have an opportunity of consulting among themselves. The Lieutenant Governor granted them time for consultation until three o'clock in the afternoon of the next day, when he informed them they would be adjourned, to meet again on the 22d of May.

Of the time thus granted, the Assembly made good use, for when called before the Council on the next day to be adjourned, their Speaker, after expressing the disappointment of the House, that the Governor had failed to meet them, presented the following list of greivances, which the people, through their representatives, desired to have redressed:

1. That wee have not the Catalogue of the Laws, with the preamble to them, and the Governor's approbaon of ym, which wer declared by the petition of Right in the Assemblie Last year to be in force, that Justice may be administred according to the sd Laws in the Severall Courts of Justice in this province & Countrie.
2. That the Late Law for appealls, which gives Libertie to appeall both in Law & equitie, Wherby the Judges and Justices of y^{e} peace have too great Libertie to destroy or make void the Verdicts of Juries, without due care be taken; Wherfore, wee desire that the Judges and Justices of y^{e} peace may receive instructions & Caution from you not to decree anie thing in equitie that may make void the Verdicts of Juries, or Judgments before given in Law, in the same Cause.
3. That the power given by the Late Law for raising money by the Justices of the peace in their respective Counties, may not be made use of to the dissatisfaction of the Countrie, But that the Justices may be Cautioned that what monie is raised to defray the publick charge of the Countrie, may be done by the approbacon of the grand Jurie, or other Sufficient Inhabitants of the severall Counties, to assist in and approve the severall taxes to be raised, and to have the Hearing & examinacon of the accompts of the severall receits & disbursments.
4. That the omissions in the Late Laws by the Clark appointed to transcribe ym, may be Corrected, and the Laws, or such parts of the Laws as are Left outt, may be entred in the roll of Laws.
5. That the monie granted to be raised the Last Assemblie, for the support of this government, may be accordinglie Imployed to the use it was intended, & that an accompt thereof be given att the next Sitting of Assembly, according to the true intent of the said act and makers therof.

When this offer of the House had been read, the Lieutenant Governor requested the Speaker to withdraw it, and present it to the Governor at the next sitting of the Assembly. This the Speaker refused to do, declaring that his orders were to present the paper to the *Lieutenant* Governor, and that he had no instructions to receive it again.

The Assembly reconvened at the appointed time, and were met by Governor Fletcher, who, in his address, presented an apology for having disappointed them of his presence at their last meeting, laying before them a

statement of the entire matter with which he was at that time busied Into this statement he had skillfully interjected a pitiful tale of the condition of affairs about Albany, to prepare their minds, as it were, for the reception of his contemplated additional demands upon them for assistance. Knowing, as from his experience he well had reason to, that the religious proclivities of a majority of the Assembly would not permit them to levy money for war, the Governor, at this time, ventured to express nothing in regard to his future intentions, beyond the hope that they would not refuse "to feed the hungry and cloath the naked," or, in other words, supply the Indian nations with such necessaries as would influence their continued friendship towards their Majesties subjects.

In respect to any greivances which the Assembly might present, the Governor, in conclusion, expressed his willingness to redress them, so far as a just regard to liberty and property would permit.

As was natural, the Assembly were particularly desirous of knowing whether the Petition of Right and Laws, enacted at the last Assembly, had been confirmed in England, and one of their first acts was to inquire of the Governor what had been done in the premises. The reply was that their laws had been delivered to the King and Privy Council, and at last accounts were in the hands of the Attorney General, undergoing examination.

This information obtained, the next step taken by the Assembly was to secure from the Governor the confirmation of two of the old laws of the Province, namely: The law relative to Robbing and Stealing, and the law relative to Runaway Servants, which they claimed had, through the error of the Clerk who transcribed the Petition of Right, been omitted from that instrument.

To prevent uncertainty in the administration of justice, and that criminals might not go unpunished, the Governor, as will shortly appear, allowed the confirmation of these two laws, although he declared them to be "not consonant with the laws of England," at least in their present form. They were inserted in the Petition of Right, in their proper places.

With Governor Fletcher, this year as last, the main question to be disposed of by the Assembly was, how money might be raised for the support of New York. At his instance, a committee of Council had examined into the manner in which the levy of last year had been made and collected, and were compelled to report that the entire sum assessed and collected under the act would not exceed five hundred pounds sterling. It was, therefore, apparent to the Governor, that if any aid for Albany was to be expected from Pennsylvania, a new and more specific revenue bill must be devised, and to the task of driving the Assembly to an acknowledgement of this fact, he addressed all his energies. Failing to convince them, that by acceding to his wishes, they would be performing a deed of Christian charity—feeding the hungry, and clothing the naked—he next took advantage of the neglect of the Assembly, last year, in not mentioning the

Queen's letter in connection with, and in the body of the bill of Supply. Ignoring that bill entirely, Fletcher now demanded of the Assembly, that *they should take some action upon the Queen's letter.*

Meanwhile, the Assembly were busy in the preparation of new bills to be passed into laws. Several had already been sent to the Governor and Council, for their consideration, when the Assembly, among other messages, received this peremptory request from the Governor:

"You have the Queen's Letter Commanding assistance to New York, which ought to have greater force than my arguments: I expected her Majesty's Commands would have so far prevailed. The original was shown to the Last Assembly, which I suppose may be entred in your books, or a Copy thereof upon file with your Clerk. *I had no positive answer from them*, and expect one from you."

In response to this demand, the Assembly, after some little delay, prepared and passed a measure similar to the supply bill of last year, but with this proviso added, that the revenue primarily should go to the payment of two hundred pounds each to William Markham and Thomas Lloyd, for their services as late Deputy Governors of the Province, and that the remaining part of the fund should be at the disposal of the Governor and Council, to meet "the charge that may hereafter happen, upon any necessary occasion in this Government."

This bill, and nine other new ones, were sent to the Governor, after they had received the requisite consideration by both Council and Assembly.

As soon as the money bill was read before the Governor, he at once declared that it could not become a law, and the Council acquiescing in his decision, the Speaker and Assembly were sent for, and the Governor thus addressed them:

You have mistaken the form of the bill. I can pass no bill to Leavie monie on their Maties Subjects for myself, or for the use of anie other person whatsoever. Their Maties, or their particular service, must be first regarded in all Leavies, and if you design a favor for Coll. Markham or M^{r} LLoyd, your method is to raise a fund answerable to the Queen's Letter and their Maties expectations for the securitie of the fronteers and assistance of Newyork, and then to pray their Maties wold be pleased to allow outt of that sum what you intend for these gentl.^{n} I find you goe about to appoint yo^{r} owne Collector; as you cannot raise monie or give it to anie other but their Maties, So you Cannot appoint such an officer; Indeed it appears an Unmannerlie distrust of the person in that office alreadie Comissionated, and it Looks Like putting it outt of their Maties power (if you could) to disallow of yo^{r} act. I shall suspend my determination as to the other bill till you Consider better of this, and doe again putt you in mind of a positive answer to their majesties Letter

The Assembly, after briefly asserting their right to appropriate money in all ways not inconsistent with their privileges, and the practice in England, here, and in neighboring colonies, withdrew, and shortly afterwards,

presented the following carefully prepared remonstrance against the Governor's action on the money bill:

That having read thy speech delivered us the 23^{d} of the 3^{d} mo., 1694, as also having Considered the message sent us from thee and the Councill on the first day of this M^{o}., with respect to the Queen's Letter, Wee find upon perusall of the minuts of Assembly held here about 12 M^{o}. agoe, that the rate, or tax, then granted to the king and Queen, was in Complyance to the aforesaid Letter, so farr as the religious persuasion of the most part of that Assemblie could admitt, and although the said tax amounted to seven hundred and sixtie pounds, and the greatest part thereof paid in by the Countrie to the respective Collectors, and (as it seems) in great readiness to be received by the Treasurer, which wee looke upon to be a verie Considerable demonstraon of our realitie and affection towards the king and Queen, Considering the Circumstances and infancie of this place, and what our neighbouring provinces (who are of much more abilitie, but under no Less obligaon than wee are in that respect) have Contributed upon the Like occasion; Yet notwithstanding all wee have done, wee find that wee are not suteablie represented to the Indians in the Late treaties thou had with them att Albany; and not onlie soe, but wee perceive by thy speech that the five Indian nations (who till of Late have been faithfull to the Crown of England) are now drawen over to the french interest, and our Indians here Like to be Compelled to join in that fatall Confederacie, unles prevented through thy prudent management in returning the said five Nations to their former friendshipp with the English; for the accomplishment wherof, If what has been raised for support of governm^{t} (allowing a Competent Consideraon to the Leiv^{t} Go^{r} for his Last year's service,) or in case anie thing that wee shall Contribute towards the Supplying of the Indians with necessaries for food and rayment, shall receive that Candor as to be accompted o^{r} assistance, In order to influence and gain them to a Continouance of their former amitie with these provinces, wee shall with all readiness acquiesce that a Suteable proportion of the monie raised, or intended to be raised & appropriated by us to that use, Shall be reputed and taken as a support to this governm^{t}. Therefore, wee desire that wee may be accordinglie Represented to the Indians, & not rekoned among those that refuse to Comply either with the Queen's Letter or thy Just Comands, which otherwise may prove of ill consequence to us.

This defiant reply so incensed the Governor, that he determined immediately to dissolve the Assembly. Accordingly, on the afternoon of this day, June 9, he demanded and secured the presence of the whole House of Representatives before him. When assembled, he upbraided them severely for wasting nineteen days of a session in searching for imaginary grievances, and during that time giving no consideration to measures for the security of the Province, as had been especially commanded by her Majesty the Queen.

Having thus addressed the Assembly, the Governor, preparatory to dissolving them, disposed of the pending legislation in these words:

You have Laid some bills before me. First, you desire me to give Sanction to two bills ag^{t} Robbing and Stealing, which tho' (as you word ym) they are not Consonant to the Laws of England, yett att yo^{r} instance and request I doe allow of them, till their Maties pleasure be further

knowen. And so for the rest, viz: 2d, that for regulating weights and measures. 3d, That for Regulating Tobacco Cask. 4th, That agt Importing Tobacco by Land from Maryland. 5th, that for Limiting the Interest of money to eight per cent. 6th, That to make land and freehold liable to execuon for debt. 7th, That for Impowering the widow and exers. to sell Land for paymt of debts.[1]

These other bills I cannot pass. First, the bill for Countie Levies, which appears most unreasonable and Contrary to the Laws of England and the Comon practice in anie of their Maties dominions, for particular persons to Levie money upon the subject without their owne Consent. A grand Jurie att the Quarter sessions doe represent the Countie, and are Judges of the necessarie charges of the Countie, and may present such sums of money as are Convenient for the repairing highwayes, bridges, &c. and the Justices take care to order it accordinglie; But in this Bill the Justices and Representatives of each Countie are empowred without a grand Jurie, and agt their Consents, to Levy money att pleasure, under a pretence of paying old debts of twelve years standing. The second is a Bill for Regulating fees. This power is by their Maties Letters patents invested in the Governor & Councill, & care shall be taken therof, as in the province of Newyork, to yor generall satisfaction.

The third is for a Sallarie for Assemblie men of Six shillings a day, I recomended to yor Care a support for the Leivt. Governor, the Judges & other officers who act by their Maties Comission in this province, To which you have allwayes Lent a deaf eare; And I find yor members of Assemblie have a way to gett their old allowance of three shills. a day by a bill for defraying Countie charges. This I think is sufficient wages.

The fourth is the money Bill, Wherin you have no regard to what I proposed to you for their Maties service, In enabling mee to ansr her Maties Letter for assistance to Newyork, tho' proposed in such a way as is agreeable to the most tender Consciences among you. You wold raise monie upon the subject & dispose of it at yor pleasure to the two Late deputies in such a manner as I cannot consent to, being Limited by my instructions. You wold also putt itt outt of their Maties power to approve or disallow of yor gift; you will not trust the Receiver generall appointed by authoritie of the Crown, but name one of yor owne, who shall not be accomptable for the sd sum, but to the two Late deputies: And you wold by this bill give a certain sum of 400lb. to those two gentl, who never acted by Imediate Comission from the Crown, and Leave the uncertain fragment for the support of governmt, which, according to the measure of yor Late aplottment, will not amount to 100lb. st; I am apt to believe to nothing.

Now Gentlemen, finding no prospect of yor Inclinaons for their Maties service, or your owne saftie, I think fitt to dissolve this present Assemblie, and you are hereby dissolved.

In the above record is found the last official act of Governor Fletcher, so far as relates to the legislative business of the Province. The affairs of the Proprietor were, at last, beginning to assume a more favorable aspect in England, and gave promise of a speedy termination of the late troubles. The existence of a less antagonistic feeling between the Crown and the Proprietor, manifested itself in a desire, on part of their Majesties, that Penn should be restored to the enjoyment of his rights. This feeling, at length, on the 20th of August, 1694, culminated in the issue of

[1] For the laws passed at this session, *vide* p. 241.

letters patent, by the King and Queen, annulling the commission as Governor, formerly given to Fletcher, so far as the Province and territories of Pennsylvania were concerned, and completely restoring Penn to the enjoyment and control of the same, as absolute Proprietary.

As the Proprietary's presence in England was still necessary, upon assuming his suspended rights, he appointed William Markham, the present Lieutenant Governor, to be his Deputy, or Governor under him, by the following commission:

Wm. Penn, propriatorie of pennsilvania, &c. His Commission To Wm. Markham, to be Governor under him of the sd province and Countries annexed.

Seal of the province. William Penn, proprietarie of the province of pennsilvania & Counties annexed, to his Trustie and beloved friend and kinsman, William Markham, Greeting:

Being as yet unable to goe myself, and having not time to make anie other settlements of publick affairs than that which follows, And reposing speciall Confidence in thy justice, prudence and integritie, I have hereby thought fitt to Nominate & appoint thee Governo^{r} of my said province, &c. under me, And I doe hereby declare and Constitute thee Governo^{r} of the same as aforesaid; Hereby also appointing & constituting for the more easie discharge of the trust reposed in thee, Two assistants, viz: John Goodson and Samuell Carpenter of philadelphia, in the province aforesd, strictlie charging and requiring thee in all things to govern according to the known Laws & usages therof, and with the advice and Consent of both, or one of them; And particularlie, that Care be taken to Suppress all vice and disorderlie walking, by reviving and zealouslie executing all those Laws that tend to Sobriety—Strictlie charging all persons concerned to give thee & assistants the respect due to yo^{r} respective stations in government; Hereby revocking all former Comission granted by mee, And this Comission to Continou in force till farder order from mee. Given att Bristoll, this twentie-fourth day of the ninth month, one thousand Six Hundred ninty and four.

WM. PENN.

Accompanying this commission was another from the Proprietary, "appointing and constituting" John Goodson and Samuel Carpenter assistants, as above mentioned, in the government, with the advice and consent of whom, or either one of them, Markham was instructed to transact and govern, during the Proprietary's absence, the affairs of the Province, "according to the laws and usages thereof."

On the 26th of March, shortly after the receipt of his commission and instructions, Markham met the old Council at Philadelphia, and formally announced to them the recent change in the government, and the Proprietary's behests to him as deputy.

Markham's instructions were to conduct the government "according to the laws and usages thereof." There is little doubt that he interpreted this to mean the laws and usages of the former Proprietary government, and endeavored to conform his acts thereto as nearly as might be. As writs for an election were issued and returns were made by the Sheriffs of the several counties of members of Council elect, we know that his Council

was elected by the people, and not chosen arbitrarily by the Governor, as under Fletcher, and also that the old charter representation from each county was observed.

The Council of 1695, when fully organized, stood as follows:

William Markham, Governor under Penn,
John Goodson, Assistant.

Council.

Samuel Carpenter, Philadelphia,	David Lloyd, Chester,
Samuel Richardson, "	Caleb Pusey, "
Anthony Morris, "	George Maris, "
Joseph Growden, Bucks,	John Donaldson, New Castle,
Phineas Pemberton, "	John Williams, "
William Biles, "	Richard Halliwell, "
John Brinkloe, Kent,	William Clark, Sussex.
Richard Wilson, "	Thomas Pemberton, "
Griffith Jones, "	Robert Clifton, "

Patrick Robinson, Secretary.

The new Council met, for the first time, on the 25th of May. A grand committee, consisting of all the members, was at once constituted for the purpose of inspecting and revising the laws of the Province, in order to repeal those which could not properly be continued, and prepare new ones to meet the necessities of the times.

After due consideration, the grand committee of all the representatives in Council, presented to the Governor, as the result of their deliberations, a bill "Relating to the new modelling the government." During the sessions of two days, this bill was discussed without there being any prospect of an agreement on its provisions, for which reason the Governor, at length, ordered it to be laid aside, and appointed the following committee, consisting of a Councillor from each county, to prepare "a new frame and model of government," and report the same to the Governor and Council:

Samuel Carpenter, Philadelphia,
William Biles, Bucks,
David Lloyd, Chester,
Richard Halliwell, New Castle,
John Brinkloe, Kent,
William Clark, Sussex.

This select committee, however, met with no better success, in preparing a model of government, than did the grand committee of Council, and were compelled, at last, to report to the Governor and Council, that they had failed to come to any agreement, although they had expended much time and labor in the consideration of the subject.

Despairing utterly of any definite action in these premises, by the Council, Markham invited their attention to other urgent matters of business

pending, and took occasion, in the course of his remarks at this time, to intimate to them, that the contemplated change in the form of the Government, was not of his seeking, but was prompted by their desires, which they did not seem to possess the ability to carry out.

As a matter of first importance, the Governor informed the Council, that a letter, bearing date August 21, 1694, had been received from the Queen, announcing, that a quota, not exceeding eighty men, with their officers, or a sum of money equivalent to the cost of maintaining that number of soldiers, had been determined upon as the measure of the assistance to be given by the Province of Pennsylvania, and the counties annexed, for the defense of the Province of New York, and that the Proprietary had given directions, that provision should at once be made, at the expense of the public, for furnishing such assistance whenever it should be demanded.

As to the imperative necessity of attending to this matter at once, the Governor further informed them, that he was already in receipt of a letter from His Excellency, Benjamin Fletcher, Governor of New York, demanding of the Province and counties their designated quota of assistance.

Time having been asked for the consideration of this subject, the whole Council were again resolved into a grand committee, with instructions to report their determination on the Queen's and Governor Fletcher's letters at the morrow's session.

Upon the following morning, May 30, William Clark, Councillor from Sussex, reported to the Governor, that the Council had given the letters submitted to them their long and serious consideration, but had come to the conclusion, that they were "not in a capacity to give a full and satisfactory answer to so weighty a matter, without a General Assembly." But while they conceded the urgency of the case, they were unwilling that an Assembly should be called until after harvest, when the business of the people would better permit them to be absent from home.

The 9th day of September was suggested for the meeting, and the Governor was advised to call an Assembly for that date.

Of this determination of the Council, to postpone present action, the Governor was somewhat fearful, and tried to persuade them to re-consider their action. This they refused to do, and it was determined, that the Assembly should be summoned to meet at Philadelphia, on the 9th of September.

Before the departure of the Council, the Governor called their attention to the fact, that Mr. Penn had promised, in case his Province was restored to him, to protect it against the attempts made upon it by the enemies of their Majesties' government. "Will you," said the Governor, "be willing, that if an enemy should assault us, I should defend you by force of arms?" To this, some answered they would; but the Quaker element said, "that they must leave every one to their liberty, and that Governor Penn's instructions therein must be followed, and it being his business, they had nothing to do with it."

Finding that the Council were fixed in their resolution to take no action in this regard, until the meeting of Assembly, the Governor dismissed them, clearing his skirts of their action, and advising them as to their future conduct, in these words: "Gentlemen, you are my witnesses that I have done my duty; (I) only wish that this your delay may not be taken for a denial, the consequences whereof may prove very fatal to us all."

Pursuant with the Governor's summons, the Assembly met at Philadelphia, on the 9th of September.[1]

The representation of the several counties was as follows:

Philadelphia.	Bucks.	Chester.
Edward Shippen,	Joshua Hoopes,	John Blunston,
Alexander Beardsley,	Henry Paxon,	Barth. Coppock,
James Fox,	Samuel Dark,	William Jenkins,
Robert Owen,	Nicholas Walne,	Robert Piles,
John Bevan,	John Swift,	Walter Forest,
John Parsons.	Joseph Miller.	Philip Roman.
Kent.	**New Castle.**	**Sussex.**
John Betts,	Joseph England,	John Stockley,
William Rodney,	Valentine Hollingworth,	Thomas Oldman,
William Morton,	George Harland,	Joseph Booth,
Simon Irons,	Edward Gibbs,	Henry Moleston,
Daniel Brown,	Henry Hollingworth,	James Peterkill,
John Hilliard.	Cornelius Empson,	Jonathan Barley.

Edward Shippen, of Philadelphia, was chosen Speaker, and Francis Cook, Clerk.

As he had done with the Council, the Governor proceeded to acquaint the Assembly with the substance of the Queen's late letter, and the demands of Governor Fletcher—daily becoming more urgent—for the compliance of the Province and territories with the commands therein contained.

A grand committee, consisting of all members of both Council and Assembly, sat for the consideration of this matter, and the questions arising as to the method of legislation.

All bills proposed to become laws were required, by the provisions of the late charter, as is well known, to be prepared and promulgated by the Council, before the sitting of the Assembly. This the Council had failed to do, and now, a grand committee of the two Houses obviated this omission of a constitutional requirement, by deciding, that in the present emergency it might be lawful to proceed to legislation without the promulgation of bills.

It was also agreed, that bills might be prepared and proposed by the Council as well as the Assembly, since both bodies were created by the people.

[1] The meetings were held in the house of Sarah Whitpain; one member from each county obligating himself to pay his portion of the expenses of the session.

In regard to the Queen's letter, and a proposed "Act of Settlement," which the Assembly insisted on placing upon the same plane of importance with the subject matter of the Queen's letter, the Governor was requested to, and did accordingly appoint, a joint committee of the two Houses, consisting of two members of each House from each county, to decide what should be done.

On the morning following their appointment, the joint committee made report to the Governor. Concerning the Queen's letter, and the demands for assistance to New York contained therein, after reciting the action of the General Assembly of the Province, in 1693, in passing the Supply bill, and re-calling Governor Fletcher's promises on that occasion, that the money raised by the Province "should not be dipt in blood," and that those who were conscientiously opposed to bearing arms, should not be compelled to do so, they conclude their report in these words:

"Therfore, It is the Opinion of this Committee, that all the monie alreadie raised, or att this time intended to be raised for support of government, & not expresslie appointed for anie other particular use, ought to be deemed & taken in stead of the assistance required from this government, the same being in answer to the Queen's Letters, soe farr as in Conscience & abilitie wee can Complie therwith, And that the same may be appropriated accordinglie, as the Governor, or his deputie for the time being, shall see meet."

The joint committee also submitted a report on the "Act of Settlement;" the records, however, contain nothing as to its character.

These reports of the joint committee were submitted to the consideration of each House separately, and were adopted by both, but were not satisfactory to the Governor.

Although both branches of the Assembly had refused to vote men, or money for the support of men, to assist in the defense of New York, the members unanimously declared, that it was their design *to raise money for the King, to dispose of as he pleased.*

The Governor's objection to the reported Act of Settlement, and his desire for more satisfactory action in answer to the Queen's letter, resulted in the creation of another grand committee of all the representatives, who were instructed to draw up a bill for raising money, and another Act of Settlement.

This was accordingly done by the committee, but with no more satisfactory results than before. The money bill reported was in substance that of 1694, which had proved so objectionable to Governor Fletcher.

It proposed a tax of one penny per pound, and a poll tax of six shillings. This revenue was to be appropriated, two hundred and fifty pounds for the support of the Government; three hundred pounds to Governor Markham, for his services; and "the surplus for defraying the debts of the Government."

Together with this money bill, and so closely identified with it, that

both must have been either passed or defeated, was reported another Act of Settlement.

The Governor was again displeased with both of these measures. Making the one dependent upon the other seemed to him an attempt to compel him to pass both or neither, and he expressly declared his intention not to pass any other bill, until a satisfactory bill, in answer to the Queen's letter, was presented to him in such a shape that he could pass it, without being trammelled with other legislation.

To this, the Representatives replied, that in the English Parliament, the people always had their privileges accorded to them, before they gave their sanction to any money bills, and although they did not pretend to be on an equality with Parliament, "in this poor Province," they still desired to proceed in a manner to some degree parliamentary. They claimed, that in this Act of Settlement, they asked nothing more than had been granted to them before by the Proprietary.

The Governor's rejoinder to this pointedly expressed claim of the Representatives was an absolute refusal to pass the proposed Act of Settlement, for reasons which, in his opinion, he was not obliged at this time to divulge.

Finding that he could obtain no more satisfactory answer to his demands than that already proposed, Markham, in language almost identical with that of his royal predecessor, on like occasions, dissolved the General Assembly, at this date, namely, September 27.

Seal of David Lloyd, Speaker of Assembly, 1694.

CHAPTER X.

COUNCILS AND ASSEMBLIES—1696 AND 1697.

The arbitrary dissolution of the Assembly of 1695, by Governor Markham, was looked upon by the Representatives with surprise and dismay. They considered it an unwarrantable proceeding, based upon a false interpretation of their intentions in insisting upon the legislation they had proposed. Nor was the sudden dismissal of the Assembly the only radical, and, to them, unjustifiable action predicated by the Governor, on their desire for a new act of settlement, so forcibly expressed at the last meeting of Assembly, and on their departure from the provisions of the charter, in regard to the promulgation of bills on that occasion. Although they insisted "that where mention was then made of any difficulty, or inconvenience, in resuming the charter, it was but in circumstantials, and had respect only to the time of meeting, number of members, and such like," and that they did not consider that the charter had, in any way, been forfeited or lost; nevertheless, Governor Markham saw fit to construe their action into an expression of dissatisfaction with the manner in which he had attempted to restore the Proprietary government. He therefore determined, before the meeting of the next Council, to act upon a different interpretation of his injunction to govern the Province, "according to the known laws and usages thereof." Discarding entirely the old charter of the Province, he assumed the methods of government established by Fletcher. Contrary to the advice of John Goodson, the assistant appointed by Penn, who, in consequence thereof, resigned his position, no writs for choosing members of Council were issued at the time appointed by charter, and every effort was used by the Governor to dissuade the people from holding any such election.

It will be remembered that Governor Fletcher was authorized to appoint a Council, not to exceed twelve persons in number, any three of whom should be a quorum. Markham, therefore, in conformity with the usages of Fletcher's government, appointed twelve persons to be his Council of 1696, and summoned them to a meeting with him on the 25th of September. Following are the members who sat with him:

Edward Shippen,
Anthony Morris,
David Lloyd,
Jasper Yeates,
John Hill,
John Brinkloe,
William Clarke,
John Donaldson,
Patrick Robinson.

In his opening address to them, the Governor said that he had chosen them to be his Council, being well satisfied of their loyalty to his Majesty, King William, and their fidelity to the Proprietor. Being men of landed estates, he felt confident that they would study the interests of the country, and would advise him in what was for the safety and preservation of the same. Intimating that their interests would be best promoted by a diligent observance and execution of his Majesty's laws and orders, which, moreover, it was their duty to do, as honest men and faithful citizens.

With the failure of the Assembly again, last year, to supply Pennsylvania's quota of assistance to New York, Governor Fletcher was greatly displeased, and wrote to Penn, himself, concerning the obstinacy of his Province, in thus persistently refusing to obey the Queen's commands. It was, therefore, not a matter of surprise to the Council, when informed that they had been summoned principally for the consideration of further and more importunate demands from Governor Fletcher, for that assistance which it was not their intention to furnish, at least, in the shape demanded.

Markham presented the matter to the Council in its strongest light, declaring his utter inability to give a satisfactory answer to these demands of Fletcher, in the present condition of affairs; neither money or men being appropriated for the purpose. At his earnest solicitation, the Council advised the calling of an Assembly, "with all convenient speed."

Writs were, accordingly, at once issued to the Sheriffs of the several counties, commanding them to summon the people to assemble in the usual places of election, on the 16th of the next month, October, and then and there elect members to serve in an Assembly, to sit on the 26th of the same month, as follows: The counties of Philadelphia and New Castle to choose each four Representatives, and the other four counties to choose each three.

In compliance with "the Deputy Governor's writs," the Assembly met at Philadelphia at the time appointed. The members elected were:

Philadelphia.	Chester.	New Castle.
Samuel Carpenter,	John Symcock,	John Hussey,
Samuel Richardson,	John Blunston,	Cornelius Empson,
James Fox,	Caleb Pusey.	George Hogg,
Nicholas Walne.		Adam Peterson.

Bucks.	Kent.	Sussex.
William Biles,	William Rodney,	Thomas Pemberton,
Joshua Hoopes,	William Morton,	Roger Corbett,
William Paxon.	Richard Wilson.	John Mires.

John Symcock, of Chester, was chosen Speaker.

At his first meeting with the Assembly, the Governor plunged at once into the midst of affairs, by announcing that his principal object in calling

them, at this time, was that immediate steps might be taken toward satisfying the demands of New York, in compliance with her Majesty's command.

The Assembly adjourned to their own meeting, for the consideration of the Governor's instructions to them, but kept him in suspense as to the progress they were making. Meanwhile Markham was harassed with almost daily communications from Fletcher, demanding the promised quota. Upon the receipt of a letter of this character, on the morning of the 29th of October, Markham's patience became entirely exhausted, and, with the consent of the Council, he, the next day, called the Assembly to a conference with him, and addressed them as follows:

M^r^ Speaker & you Gentl. of the assembly, you are a verie silent & close Assembly, which I believe proceeds from some jealousies you may have that I intend to take away yo^r^ Charter. M^r^ Goodson relinquished his assistanceshipp to me, that Arthur Cook might take it up, by presenting mee a Comission from the proprietor to me, which hee had keept hid from mee these 18 mo's past, & w^ch^ authorized me to act according to Law & Charter, & by another to Sam^ll^ Jennings & Arthur Cook, to be my assistants, which they also keept hid from mee the Like time. Gentl, After the proprietor had his Governm^t^ restored to him, I was of opinion that his Charter to you was in force, and I then called you together according to it, (except in the day,) & endeavored to putt the governm^t^ in that frame it was in before it was taken from him, & no man more asserted the powers of the Charter than I did, and am still readie to doe; But the then Representatives wer of opinion that it Could not be Reassumed but by a Legislative authoritie, which was a thing of too great moment for mee to have done without advice from the proprietor, who gave the Charter; and since att that time you owned not yo^r^selves to a provincial Charteral Councill, it was then in my power to dissolve you, which I did. Gentl, no man ever heard mee say that the charter was void, & no man stood more for the defence of it than myself. And had that Comission which M^r^ Cook now presents to mee from the proprietor, which authorizes mee to act by Law & Charter, been the first presented to mee, I could not even by it, have acted more Charterallie than I did by that by which I then & now act, which authorizes mee to act according to the Laws & Usages. And since you say that the Charter cannot be put into act & motion without a Legislative authoritie, If I had power or Instructions from the proprietor to doe it I would most willinglie; But yet for all that, care must be taken for the governm^t^, and if by Charter I can doe nothing by the king's Letters patents, I must, seeing the emergencie of affairs, call for it with all dispatch. Gentl, If there be anything you wold have me do that may secure anie right or claime you have in Law or equitie to that Charter, or anie part of it, (besids putting it in force without the proprietor,) I'le offerr that nothing you doe this sessions shall be any manner of way prejudicial to yo^r^ claime or right to the same.

"Gentl, Its above 12 mo's since I called an Assembly, & indeed I was backward to call one, knowing how fond you wer of the Charter, Hoping to Have Heard from the proprietor; but now the emergencies being such that I could no Longer delay the calling you, I have now called you according to the king's Lres patents to M^r^ Penn, & as neer as I can according to the Customs of the nighboring provinces.

The Governor then acquainted the Assembly with the contents of Governor Fletcher's last letter, and delivered it to them for their consideration.

In reply to the Governor's speech, the Speaker of the Assembly delivered the following message from the House:

To the Governo^r & Council. Wheras, the Govern^r has been pleased to conveen us by his writts, tho' not in the form of Charter, as wee could desire, Wee have obeyed the same & considred what he has laid before us, Viz: an ans^r to the Late Queen's Letter, & o^r proprietor's promise upon his restoration to his governt, And wee are heartilie & Unanimouslie willing & ready to perform o^r duties therein so farr as in us Lyes, If the Go^r wold be pleased to settle us in o^r former Constituon enjoyed by us before this govermt was comitted to Go^r Fletcher's trust.

To this the Governor replied that what he had already spoken might serve as an answer to their message.

After consulting among themselves as to the best plan to be adopted, that would secure their own rights, and, at the same time, satisfy the demands of Governor Fletcher, the Assembly decided to request of the Governor that he would appoint a committee of Council, who, with a similar committee of the House, might devise some expedient to answer the Queen's letter and preserve the privileges of the people. This request the Governor readily acceded to.

The joint committee thus created, after an exhaustive consideration of the subject, at length, unanimously agreed to report as their opinion that it was practicable to raise money, in answer to the Queen's letter, provided that the Governor would accede to the request of the Assembly, and agree to pass an act of settlement, and so construe its passage that it should not, in the future, work injury, either to the rights of the people or of the Proprietary, and provided further, that the Governor would agree to issue his writs for choosing a full number of Representatives, according to charter, to serve in the next Provincial Council and Assembly, subject, of course, to the approval or disapproval of the Proprietary.

When submitted separately to Council and Assembly, this report of the committee was almost unanimously adopted, and the Governor was humbly requested "to consider the same, and concur therein."

Summoning the Council and Assembly to a joint meeting upon the following morning, the Governor announced to them that he had considered the report of the committee, and had been induced, by their acquiescence in it, to draw up "some heads of a frame of government," containing some amendments and alterations of the old charter, "which," said he, "I give you, and desire you to consider of it, and draw it up into a bill, and then I will consider whether to pass it into an act or not."

To evince their appreciation of this almost unexpected concession to their wishes, by the Governor, the Assembly, forthwith, entered upon the consideration of the measures proposed by him, and upon the third day

thereafter, presented to him and the Council, for confirmation, not only the new act of settlement or frame of government, but also a new revenue bill, imposing a second tax of one penny per pound, to meet the demands of New York.[1]

These bills, together with three more of minor importance,[2] were, upon the afternoon of the same day, November 7, agreed to by the Council, with slight amendments, and confirmed by the Governor, "who did pass them all, one after another, by affixing thereto his hand, and seal of the Province."

The Assembly announcing that they had no more business to transact, the Governor declared them dissolved, and thus ended the most harmonious and businesslike session of the General Assembly, held since the departure of the Proprietary.

"Markham's Frame of Government,"[3] as the act of settlement passed this year is generally called, made some important changes in the existing plan of government. Under its provisions, a fixed and certain number of both Councillors and Assemblymen were elected each year, to serve for that year only. *Two* members of Council and *four* members of Assembly, were to be chosen from each county, annually, on the 10th day of March, and were to meet in General Assembly on the 10th of May. Preeminence in "virtue, wisdom, and ability" was the prime measure of their qualification. Two thirds of the upper House, in matters of importance, and one third, in matters of less moment, were a quorum. Both the Council and the Assembly had the power of proposing bills, each for the consideration of the other, and such bills as the Governor gave his consent to became laws; duplicates of which were to be transmitted to the King's Council. All laws were to be published in the style of: *By the Governor, with the assent and approbation of the freemen in General Assembly met.* To the Assembly was accorded the right of sitting on its own adjournments and committees; of continuing its preparation of bills, redressing grievances, and impeaching criminals, till dismissed by the Governor and Council, who possessed the right of summoning the Assembly at any time during the year. Two thirds, at any time, to constitute a quorum. The Governor, or his Deputy, was to preside in Council, but was prohibited from performing any public act of state, whatsoever, relating to justice, treasury, or trade of the Province and territories without the advice and consent of the Council, or a majority of them at any time present: Provided, that nothing should alter, change, or diminish the form and effect of this act, or any part or clause thereof, contrary to its true intent and meaning, without the consent of the Governor, for the time being, and six parts of seven of the freemen in Council and Assembly met. The act to continue and be in force until the said Proprietary signified his pleasure to the contrary, by some instrument, under his hand and seal. And it was provided, in conclusion, that neither this act, nor any

[1] *Vide* p. 253. [2] *Vide* pp. 256-260. [3] *Vide* p. 245.

other act or acts whatsoever, should preclude or debar the inhabitants of the Province and territories from claiming, having, and enjoying any of the rights, privileges, and immunities, which the said Proprietary, for himself, his heirs, and assigns, did formerly grant, or which, of right, belong unto them, the said inhabitants, by virtue of any law, charter, or grants whatsoever, anything therein contained to the contrary, notwithstanding.

The General Assembly, 1697.

William Markham, Esq., Governor under Penn.

Council.

Edward Shippen, Philadelphia,	Griffith Jones,[1] Kent,
Samuel Carpenter, "	John Curtis, "
Joseph Growden, Bucks,	William Clark, Sussex,
Phineas Pemberton, "	John Hill, "
John Symcock, Chester,	Peter Alrichs, New Castle,
Caleb Pusey, "	Richard Halliwell, "

Assembly.

Philadelphia.	Chester.	Kent.
Samuel Richardson,	John Blunston, (Speaker,)	John Walker,
James Fox,	Barth. Coppock,	Thomas Bedwell,
Robert Owen,	Thomas Worth,	Samuel Burberry,
Nicholas Walne.	Johnathan Hayes.	John Bradshaw.
Bucks.	**New Castle.**	**Sussex.**
Joshua Hoopes,	Cornelius Empson,	Luke Watson,
Stephen Beaks,	Benjamin Gormley,	Thomas Oldman,
Richard Hough,	John Richardson,	Nehemiah Field,
Jere. Langhorn.	John Buckley.	Thomas Fisher.

In addressing the General Assembly of 1697, the first which met under the provisions of the new act of settlement, Governor Markham said: "You are at this time met together not by virtue of any writ nor call of mine, but by virtue of a law made by yourselves, or by your representatives last sessions, and therefore I have the less to say to you."

With the approach of another session of the Assembly, however, came the inevitable letter from Governor Fletcher, demanding further assistance from the Province for New York. On the credit of the revenue bill of 1696, the Province had borrowed from individuals the sum of three hundred pounds, which had been promptly transmitted to Governor Fletcher last year. Notwithstanding this contribution, he now again approaches the law-makers of Pennsylvania with this threat: "You know what orders I have for applying for assistance, and upon what conditions the government was restored to your Proprietor."

In his letter to Markham, which was submitted to the Assembly at the

[1] Refused to be qualified, except under the old charter.

opening of their session for consideration, Fletcher makes the following modest statement of the liabilities of the Province. After acknowledging the receipt of three hundred pounds of Pennsylvania money, sent last year, which he takes pains to state was expended to feed and clothe the Indians, he goes on to say: "Your quota is eighty men, and the charge for one year will amount to two thousand (2,000) pounds and upwards; that there is now fifty men wanting to complete the number of forces, I design to be at Albany, of which I do apply to you for twenty-five men or a proportional sum of money to answer other charges with the Indians and of procuring those men."

The consideration of Governor Fletcher's letter was the principal business of this session. A joint committee of the Council and Assembly took the matter in charge, and after a careful review of the whole subject, submitted the following report, which was unanimously adopted by the Council and Assembly:

Att a Comittee Consisting of Several members of Council & Assemblie, appointed to Consider of Governo^{r} Fletcher demands of a further assistance to y^{e} Governm^{t} of Newyork, May y^{e} 4th, 1697; Having read his Letter, & weightilie considered y^{e} same, wee can do no less than acknowledge his & that government's regard & Candor to us, in applying y^{e} 300lb. which hee pleases to mention, sent from this governm^{t} as intended, viz: to feed & cloath the distressed Indians. Onlie this wee wold desire, hee might be given further to understand, that y^{e} sd 300lb. was about Six mo's borrowed att Interest, upon y^{e} Credit of an act of Assmblie for raising y^{e} same, & is not yet repaid: Therfore, Considering y^{e} Infancie & povertie of this governm^{t}, which also Lyeth under other considerable debts, Wee do not find wee are capable att present to raise any more money for y^{t} service, which wee desire o^{r} Go^{r} may accordinglie repsent, with o^{r} readiness to observe y^{e} king's farther Comands, according to o^{r} religious psuasions & abilities. Signed by ord^{r} of y^{e} Comittee.

WM. CLARKE, Chairman.

In order to have the business affairs of the Province in presentable shape, in case any strict inquiry should be instituted by Governor Fletcher, upon receipt of the Assembly's refusal to furnish any more funds at present, steps were at once taken by the Council and Assembly to ascertain in what manner the revenue, provided by the act of 1696, had been assessed and collected.

All the collectors of the several counties were summoned to appear before a grand committee of the two Houses, that their accounts and conduct might be thoroughly investigated. It was found that there had been great carelessness in both the assessment and collection of the tax. From the report of the receiver, it appeared that there was only about three hundred pounds in his hands. A large amount was still outstanding, but there were no copies of duplicates or lists of delinquents to show from whom due.

The committee, therefore, found it necessary to recommend the passage of a new law to remedy the defects in the old, and to provide a speedy method of collecting the arrears of the assessment laid in 1696. The recom-

mendation of the committee was followed, and a bill of this character passed.

During this session, sixteen bills in all were presented to the Governor and Council by the Assembly. Of these, the Governor, with the advice of the Council, rejected eight. The remaining eight were passed into laws,[1] and were severally signed and sealed by the Governor.

No further business being presented by the Council and Assembly, the Governor, on the afternoon of the 24th of May, declared them dissolved.

[1] *Vide*, p. 261.

Seal of Register General's Office, 1715.

CHAPTER XI.

THE LEGISLATIVE WORK OF 1698 AND 1699—PENN'S RETURN TO PENNSYLVANIA—CONCLUSION.

From the beginning of the year 1698, to the close of 1699, when Penn returned from England, and again assumed control of his long neglected and faction-cursed Province, the record of public events in Pennsylvania is brief and unsatisfactory. The minutes of Council and Assembly lack entirely that accuracy and comprehensiveness for which they are so conspicuous in earlier years. A general apathy seems to have fallen upon the government, coupled with a carelessness in the preservation of the records of its business, the details of which are left almost entirely to conjecture. It is not likely, however, that anything of importance transpired during these two years. State matters of great moment, if pending then, were in all probability held in abeyance, awaiting the anticipated return of the Proprietor and Governor absolute.

But the apathy which characterized the conduct of governmental affairs in the Province, was by no means shared by the enemies of the administration, who, prompted by jealously, and in revenge for supposed private greivances, continued to harass the absent Proprietary with defamatory accounts of the condition of the government, and the low state of society in the Province, especially in the city of Philadelphia.

These reports, in some instances anonymous, and in general untrustworthy, served, nevertheless, to strengthen the suspicions of the Proprietary, already aroused by previous events, that pernicious practices, and crime even, had obtained a solid foothold in Pennsylvania during his sojourn in England.

That his absence would yet be prolonged for a year, at least, was manifest to Penn, but to allow the prevailing state of affairs to continue unchanged for that length of time, might work serious and irreparable injury to him and his Province. He therefore determined to make diligent inquiry into the truth of the reports which had reached him, that the same, if without foundation, might be disproved, or in the event of their correctness being fully established, that such steps as were necessary to correct the existing evils might at once be taken. To this end he prepared, on the 5th of September, 1697, and sent to Governor Markham a letter, with implicit instructions that the same should be opened and read by him in a full meeting of the Council. As early, therefore, as was possible, after the receipt of the letter, namely, on the 9th of the following February,

Markham convened the Council and submitted the contents of the Governor's message to them.

They were informed, in plain terms, that reports and accusations, in connection with their Government, tending to ruin and disgrace, had reached England. It was charged, that they had connived at the Scotch and Dutch trade; freely receiving European goods, and trading their own in return, in direct violation of English laws, and to the detriment of English interests; and worse than this, it was further charged, that they had not only countenanced, but actually encouraged piracy. In regard to Philadelphia, it had been reported, that there was "no place more overrun with wickedness; sins so scandalous, openly committed, in defiance of law and virtue;" in short, facts of so foul a nature, that common modesty forbade their recountal.

To counteract these reports, and at the same time to correct the alleged abuses, if actually existing, the Proprietary commanded the Governor and Council forthwith to issue some act or acts of State, to suppress forbidden trade and piracy, and to prevent the growth of vice and looseness, to be and remain in force until some severer law could be enacted. In regard to licenses for public houses, in Philadelphia and the other counties, it was further commanded, that no person not known to be "of a sober conversation," and not approved of by the justices of the county court, should be granted a license.

The contents of the Proprietary's letter "being strictlie inquired into," the Governor appointed Samuel Carpenter, Joseph Growden, and William Clarke, a committee of Council, "further to peruse the said letter, and to inquire into the said complaints, and to make report thereof to the Governor and Council, next day, by way of answer to the said letter." After duly considering the matter, this committee, through their chairman, Joseph Growden, made the following report, in writing, to the Council, which was unanimously adopted, and declared to be a sufficient answer to the Proprietary's letter:

First. As to the Scotch & dutch trade, we are not privie thereto nor any of us Concerned therein, but if any such trade has been & escap't unpunisht, It may rather be attributed to the Connivance or neglect of those officers appointed by Edward Randolph to inspect those things, or others particularly appointed in that behalf; for we can say, that the magistrats & Courts of Justice have been ready & diligent upon all occasions to punish, suppress & discourage all illegal trade that came to their knowledge.

Secondly. As to Imbracing of pirats, &c. We know of none that has been entertained here, unless Chinton & Lassell, with some others of Avery's Crew, that happened for a smal time to sojourn in this place, as they did in some of the nighbouring governments; but as soon as the magistrats in Philadelphia had received but a Copie of the Lords Justice's proclamation, gott all that were here apprehended, & would have taken the Care & Charge of securing them, untill a Legal Court had been erected for their trial, or an opportunity had presented to send them to England; but before that Could be effected, they broke goale & made their escape to New york, where Hues & Crys wer sent after them And as to pirats'

shipps, we know of none Harboured or ever came in here, much Less encouraged by the Governor or people, who as it is well known, are generally sober & industrious, & never advanced their estates by forbidden trade, piracie, or other ill ways, notwithstanding what is suggested by our enemies to the contrary.

As to the growth of vice, We cannot but owne as this place hath growne more populous, & the people increased, Loossnes & vice Hath also Creept in, which we lament, altho' endeavours have been used to suppress it by the care & industry of the magistrats from time to time, offenders Having received deserved & exemplary punishments, according to Law.

As to Ordinaries, We are of opinion that there are too many in this governm^{t}, espceiallie in philadelphia, wch is one great cause of the growth of vice, & makes the same more difficult to be supprest & keept under.

On the whole, Wee being at all times Heartily inclined to show our Loyaltie to the king, & readie obedience unto His Laws, do think it necessarie, & do therefore make our request to the Go^{r} & Council, that an Ordinance be made, & a proclamaon do forthwith Issue from the Governo^{r} & Council, strictly to suppress forbidden trade & pirats, if any shall Happen; and also, the growth of vice & Loossnes within this governm^{t}, until some wholsome & severer Laws be made for a more effectuall remedy, and the ordinaries or Houses of entertainment be reduced to a less number, & that all such as have not alreadie given good securitie for keeping good orders, and discharging the place according to Law, be spedilie required so to do, or otherwise to be suppressed, & for the future that the Justices in the Quarter Sessions in each Countie may have the approbacon, if not the Licensing Ordinarie keepers throughout the government.

The Governor and Council then addressed themselves to the task of preparing a proclamation, in compliance with the Proprietary's command, and in accordance with the decision of Council. The result of their labors is embodied in the following paper, an attested copy of which was sent to the justices of each county, with instructions forthwith to publish the same, and post "in the most public place, that all persons concerned might take notice thereof:"

By the Governor & Council of the province of Pennsylvania & Counties annexed:

A PROCLAMATION.

Whereas our proprietary Hath Latelie given us to understand of sundry accusacons or Complaints agt. this governm't for Conniving att illegal trade & Harbouring of pirates; as also of the reports that are come to England about the growth of vice & Loosness here. As to the former it's evident that they are the effects of the envy & emulation of those who by such unfair & indirect means wo'ld accomplish their designs ag^{t} this governm^{t}, for that wee are satisfied the generality of the people, merts, & Traders of this province & territories, are innocent & clear of those imputations; And this Countrie being so posited, Philadelphia is become the rode where sailors & others do frequentlie pass & repass between Virginia & New England, that it cannot be avoided but the bad as well as y^{e} good will be entertained in such an intorcourse; and since Comon charity obliges us not to presume any persons guilty (especiallie of such great enormities) till by

some legal probabilitie they appear so to be, and tho' wee find that the magistrats & people in general are & have been ready, & perhapps more active & Conscientious, to serve y^e^ king & his officers ag^t^ all unlawfull trade & piracy, when any such offences have by any means come to their knowledge, than anie of those neighbouring Colonies who have been so Querimonious ag^t^ us in that behalf; yet wee can do no less than pursuant to our proprietarie's Comands to put all in mind of their respective dutys, that ther may be no just cause for such Complaints. And as concerning vice, Wee also find that the magistrats have been carefull & diligent to suppress it, but their endeavors have proved sometimes Ineffectual therein, by reason that the ordinaries or drinking houses, especiallie in Philadelphia, grew too numerous, & the keepers thereof disorderlie & regardless of the tenor & obligacons of their Licenses, whereby they prove ungrateful to the Governo^r^, and a reproach to the governm^t^. Therfore, these are strictlie to Charge & comand all magistrats & officers whatsoever within this province and territories, as they regard the hono^r^ of God & their allegiance to the king, faithfully to put in execuon all the acts or Laws of trade & navigaon; And also, all the Laws & statutes extant ag^t^ piracy, when ever there be any such occasion, & to use their utmost diligence & care in preventing, suppressing & punishing all vice, disorders & Looss living, whersoever & in whomsoever it shall appear. And to that end it is by the Governo^r^ & Council ordained, that from and after the first day of March next, The Justices of y^e^ peace of each countie in this province and territories, at their respective General or private sessions, may nominate & pitch upon such & so many ordinarie keepers or Inn holders within their respective Counties, as they shall be well assured will keep good orders & discourage vice; And the Governo^r^ is pleased to condescend that hee will Licence those so approved of by the Justices, & will permitt no other to keep taverns, Inns or drinking houses within this governm^t^, but such as shall be so recomended from time to time. And wee further strictlie charge & Comand all persons within this governm^t^, as they will answer the contrary at their peril, that they give due assistance to the magistrats & officers aforesaid, in putting the sd Laws in execuon, & suppressing vice, that the wrath of God & the king's displeasure may not be drawn upon this poor country.

Dated at Philadelphia this 12^th^ day of the 12^th^ mo. 1697–8 in 9^th^ year of the reign of William the Third, of England, king.

In the latter part of April, or the beginning of May, 1698, Governor Markham received a new commission from the Proprietary, by virtue of which he held the government of the Province from this time on to the termination of his career, as "Lieutenant Governor," and no longer as "Governor," under William Penn. Of the terms of this new commission, we know nothing. It was publicly proclaimed on the 10th of May, at the market place in Philadelphia, and although directly after the proclamation, the secretary was ordered to record it in the book of minutes of the Council, no record of it appears there, except the brief entry of its caption.

His new commission does not seem to have limited Markham's powers in any respect, or to have made any changes in the manner of conducting affairs in the government.

The Council and Assembly of 1698 met at the usual time, and were fully organized as follows:

William Markham, Lieut. Gov. &c.

Council.

Edward Shippen, Philadelphia,	Richard Halliwell, New Castle,
Samuel Carpenter, "	John Donaldson, "
Joseph Growden, Bucks,	John Curtis, Kent,
William Biles, "	William Rodeney, Kent,
David Lloyd, Chester,	William Clarke, Sussex.
John Symcock, "	John Hill, "

Assembly.

Philadelphia.	Bucks.	Chester.
Anthony Morris,	Phineas Pemberton, (Speaker,)	Caleb Pusey,
James Fox,	Robert Heaton,	Samuel Levis,
Samuel Richardson,	Joseph Kirkbride,	Nath. Newlin,
Andrew Bankson.	Henry Baker.	Robert Carter.
New Castle.	**Kent.**	**Sussex.**
Adam Peterson,	Richard Wilson,	Thomas Oldman,
Edward Gibbs,	Robert Edmonds,	Jonathan Bailey,
John Grubb,	Henry Moleston,	Luke Watson, jr.,
Joseph England.	William Moreton.	Cornelius Willbank.

Jonathan Dickinson, Clerk.

The principal work of this session, as the Governor informed the Assembly at their organization, was to enact some measure for the government of the several ports of entry of the Province, to accord with the desires of the English Lords, Commissioners of trade and plantations, and the Commissioners of his Majesty's customs. A joint committee of Council and Assembly was accordingly created, to which the consideration of this matter was referred. The committee was commanded to carefully peruse the laws of trade and navigation, together with the instructions of the Commissioners. If any article of the instructions was found difficult to be executed, it was to be interpreted by legislative enactment, so that the Governor and the several collectors of customs might understand their duties, and perform them "with all the security possible."

Collectors were requested to advise the Governor of what laws they considered necessary for his Majesty's service and interest, and to this end were accorded free access to and freedom of speech in both Council and Assembly, or the committees of either.

The deliberations of this committee shaped themselves into a lengthy and well digested bill, defining the duties of collectors, regulating the collection of customs, and preventing abuses in trade. This measure, substantially as reported, was adopted, and passed into a law by the General Assembly. Six laws in all were enacted at this session.[1]

Outside of the routine work of legislation, there is little of interest to note.

[1] *Vide* pp. 268-277.

A committee, appointed to audit the public accounts, reported, that the Province was in debt to sundry individuals, and that the gross amount of its indebtedness at the present date, was three hundred and ninety pounds.

The Assembly, as usual, presented a number of grievances, to be redressed by the Governor and Council. It was complained of, first, that executors were required to give security upon the probate of wills. To this the Governor answered, that it was the unanimous resolve of the Council, "that executors do and shall give security to the Ordinary." Second, in answer to the complaint, that the office for the probate of wills, and granting of letters of administration, was at Philadelphia alone, the Governor promised, that there should be an office settled for each county. To their third grievance, that the center fair, (of Philadelphia,) was a nuisance, answer was given, that that was a matter over which the justices had control.

The Governor further promised, before dismissing the Assembly, that the charges of evil doing, preferred against John Claypoole, Sheriff of Philadelphia, should be properly investigated. As to issuing writs for choosing representatives for the Assembly, to fill the places of certain members who had absented themselves during this session, he informed the Assembly, that when there was occasion, he should issue such writs to choose others.

The Assembly was dissolved, on the 31st of May, and the Council dismissed, until the 1st of the next September.

GENERAL ASSEMBLY OF 1699.

William Markham, Esq., Lieut. Governor.

Council.

Samuel Carpenter, Philadelphia,	William Rodney, Kent,
Edward Shippen, "	Richard Wilson, "
William Biles, Bucks,	William Clark, Sussex,
Phineas Pemberton, Bucks,	John Hill, "
David Lloyd, Chester,	——— ———, New Castle,
Caleb Pusey, "	——— ———, "

Assembly.

Philadelphia.	Bucks.	Chester.
Anthony Morris,	John Surkett,	John Blunston, Speaker.
James Fox,	John Swift,	Robert Piles,
Isaac Norris,	Richard Hough,	John Worrilaw,
John Bevan.	Enoch Yardly.	Robert Carter.
Kent.	**New Castle.**	**Sussex.**
John Forster,		William Piles,
Thomas Sharp,	No members	William Fisher,
Henry Moleston,	returned.	Nehemiah Field,
James Brown.		William Dyer.

It will be noticed, that no members, either of Council or of Assembly,

were returned from New Castle, to represent that county during the present sessions.[1] When the returns of the election were opened, it was discovered, that the Sheriff of New Castle, Joseph Wood, had forwarded, as his return, a half sheet of blank paper only, and a letter, containing this message, "I here inclosed send you the return of the names of the Council and Assemblymen chosen here, on the 10th instant. To give you any reason for such an election, is beyond my power; have had no discourse with any of the electors about it."

For some reason, which does not clearly appear, a disturbance was raised in New Castle, on the day of the election, which resulted in there being no choice of representatives. One, Major John Donaldson, is particularly mentioned, as having been a party to the disturbance, and the Governor and Council were highly indignant over certain letters written by him, as well as provoked at the impudent return of the Sheriff. Immediately after confirming the Assembly's choice of Speaker, (John Blunston, of Chester,) the Governor called their attention to this matter, representing the importance of at once making inquiry into the cause of the absence of a number of their members. A grand committee, consisting of all the members of Council and Assembly, appointed for this purpose, reported the facts in the case, highly censuring the conduct of Donaldson and Wood, and characterizing the letters written by them as "a great indignity and high misdemeanor against the Government." The committee further recommended, that Donaldson and Wood should be forthwith sent for, to answer before the Council for their misconduct.

The following morning, the offenders, "who casually were in town," were summoned, and appeared before the Council, where both disavowed any intention of wrong doing; Sheriff Wood declaring that he had sent the blank sheet of paper as a joke. Both were dismissed without punishment.

This occurrence has been thus fully detailed, to account for the absentees in the roll of the General Assembly of '99, as given above, and also, because in this session of eight days, it is the only recorded occurrence which broke the monotony of the routine work of passing ten bills into laws.[2]

We have now reached the prescribed limit of our present labor. The last General Assembly of the Province of Pennsylvania, "prior to the year 1700," has been dissolved, and with its dissolution, the administration of Lieutenant Governor Markham ends, so far as the business of legislation

[1] The following persons were elected to fill the vacancies, from New Castle, in the Council and Assembly of 1699, upon a writ issued by Penn, when he re-convened this Assembly, in January, 1700.—*Vide infra.* *Council*—Richard Halliwell and Robert French. *Assembly*—John Henly, Adam Peterson, William Guest, and William Houston.

[2] *Vide* pp. 278-291.

is concerned, and on the 3d of the following December, he is relieved absolutely, by the arrival of the long expected Proprietary.

Penn's first act, upon re-assuming control of the government of the Province, was to re-convene the dissolved Assembly of 1699, in special session, on the 25th of January, 1700, for the express and only purpose of enacting two measures, which, in his opinion, the existing state of affairs rendered imperative. These were, "An act against pirates and privateers," and "An act for preventing frauds and abuses in trade within the Province of Pennsylvania and counties annexed."

Having secured this desired legislation, the Proprietary dismissed the Assembly from its special session, and began the work of re-constructing his young government, broken and dismembered by the disorders and revolutions to which it had been subjected in the sixteen years of his absence. Many of the germs of jealousy, personal enmity, and hatred, implanted during those years, were now springing into life, destined shortly to bear bitter fruit for the devoted Proprietary to gather and garner with that of his earlier hopes.

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* In the text of the Historical Notes, Proud has been followed in the statement that Nicholas More was speaker of the first assembly, 1682, but there are grave doubts that such was the case, and the records in existence to-day will not prove it.

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